92D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 92-523

PROVIDING FOR THE SETTLEMENT OF LAND CLAIMS OF ALASKA NATIVES

SEPTEMBER 28, 1971.—Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

Together with

A DISSENTING VIEW

[To accompany H.R. 10367]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 10367) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, strike "(a)".

Page 3, line 4, strike "indentifiable" and insert "identifiable".

Page 7, line 2, strike "Bethal" and insert "Bethel".

Page 7, line 16, strike "Grahman," and insert "Graham,".

Page 14, after line 20, add "until such time as the provisions of subsection (b) become operative".

Page 16, line 23, strike the word "purposes" and insert "purpose".

Page 18, strike out lines 7, 8, and 9, and insert the following:

> lands in the National Park System and lands withdrawn or reserved for national defense purposes other than Naval Petroleum Reserve Numbered 4. The Secretary shall, from other public lands in the State of Alaska, provide additional national wildlife refuge lands to replace any acreage in existing national wildlife refuges selected by native villages pursuant to this section.

Page 18, lines 24 and 25, strike "numbered" and insert "Numbered".

Page 19, line 15, strike "are" and insert "is".

Page 19, line 16, strike "corner" and insert "corners".

Page 21, line 12, after the word "by" insert "subsections (a), (b), and (c) of".

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Page 30, after line 2, insert a new subsection as follows:

(g) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including tne mining and mineral leasing laws. The Secretary is hereby authorized to classify any lands withdrawn by this section and to open to mineral leasing, entry, selection, location, or disposal in accordance with applicable public land laws, lands which he determines are chiefly valuable for the purposes provided for by such laws.

Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate such lands.

Nothing in this section shall restrict the land selection rights of the State under the Alaska Statehood Act (72 Stat. 341). The lands withdrawn under this section shall be subject to administration by the Secretary under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal.

Page 32, strike line 26.

Page 35, line 6, strike "regional" and insert "region".

Page 35, after line 9, insert a new paragraph (2) as follows, and renumber succeeding paragraphs:

(2) In the event that the total number of acres selected within a region pursuant to section 9 exceeds the percentage of the reduced forty million acres allotted to that region pursuant to subsection (j)(1)(B), that region shall not be entitled to receive any lands under this subsection (j). For each region so affected the difference between the acreage calculated pursuant to subsection (j)(1)(B) and the acreage selected pursuant to section 9 shall be deducted from the acreage calculated under subsection (j)(1)(C) for the remaining regions who will select lands under this subsection (j). The reductions shall be apportioned among the remaining regions so that each region's share of the total reduction bears the same proportion to the total reduction as the total land area in that region (as calculated pursuant to subsection (j)(2)(A) bears to the total land area in all of the regions whose allotments are to be reduced pursuant to this paragraph.

Page 38, line 16, strike the quote marks at the end of the line.

Page 39, line 6, strike "rights," and insert "rights as provided in section 11(i),".

H.R. 10367 (Mr. Aspinall for himself, Mr. Haley, Mr. Edmondson, Mr. Taylor, Mr. Meeds, Mr. Begich, Mrs. Mink, Mr. Steiger of

Arizona, Mr. Kyl, Mr. Camp, Mr. Terry, Mr. Abourezk, Mr. Sebelius, Mr. Stephens) incorporates language developed by the Subcommittee on Indian Affairs. The amendments to H.R. 10367 were adopted in Full Committee. Other bills considered by the Committee during its work on this legislation are H.R. 3100 (Mr. Aspinall for himself and Mr. Haley); H.R. 7039 (Mr. Meeds for himself, Mrs. Hansen of Washington, Mr. Abourezk, Mrs. Abzug, Mr. Adams, Mr. Aspin, Mr. Begich, Mr. Burton, Mr. Dellums, Mr. Edwards of California, Mr. William D. Ford, Mr. Fraser, Mr. Halpern, Mr. Harrington, Mr. Kastenmeier, Mr. Mikva, Mrs. Mink, Mr. Mitchell, Mr. Morse, Mr. Nix, Mr. Pelly, Mr. Rodino, Mr. Symington); H.R. 7432 (Mr. Saylor for himself, Mr. Steiger of Arizona, Mr. Kyl, Mr. Camp, Mr. Sebelius); H.R. 7729 (Mr. Helstoski); H.R. 7895 (Mr. Meeds for himself, Mr. Drinan, Mrs. Chisholm, Mr. Clark, Mr. Hechler of West Virginia, Mr. Rees, Mr. Rooney of Pennsylvania, Mr. Fish, Mr. Koch, Mr. Scheuer); and H.R. 8725 (Mr. Bingham for himself and Mr. Rosenthal).

PURPOSE

The purpose of H.R. 10367 is to provide an equitable solution to the claims made by the Natives of Alaska through a combination grant of land and money. Under the bill the Natives would receive 40,000,000 acres of land, $425,000,000 from the United States Treasury over a period of ten years, and $500,000,000 from mineral revenues that would otherwise go to the State of Alaska. The latter sum would be paid as the revenues are received and would be paid on a schedule and under conditions that are set out in the bill. These assets of the Natives would be administered through twelve regional corporations and a village corporation in each Village.

BACKGROUND

When the United States acquired the Territory of Alaska by purchase from Russia, the treaty (proclaimed June 20, 1867, 15 Stat. 539) conveyed to the United States dominion over the territory, and it conveyed title to all public lands and vacant lands that were not individual property. The lands used by the "uncivilized" tribes were not regarded as individual property, and the treaty provided that those tribes would be subject to such laws and regulations as the United States might from time to time adopt with respect to aboriginal tribes.

Congress provided by the Act of May 17, 1884 (23 Stat. 24), that the Indians and other persons in the territory (now commonly called Natives) should not be disturbed in the possession of any lands actually in their use or occupation or then claimed by them, but that the terms under which such persons could acquire title to such lands were reserved for future legislation by Congress. Congress has not yet legislated on this subject, and that is the purpose of this bill.

Aboriginal title is based on use and occupancy by aboriginal peoples. It is not a compensible title protected by the due process clause of the Constitution, but is a title held subject to the will of the sovereign. The sovereign has the authority to convert the aboriginal title into a full fee title, in whole or in part, or to extinguish the aboriginal title either with or without monetary or other consideration.

It has been the consistent policy of the United States Government in its dealings with Indian Tribes to grant to them title to a portion of the lands which they occupied, to extinguish the aboriginal title to the remainder of the lands by placing such lands in the public domain, and to pay the fair value of the titles extinguished. This procedure was initiated by treaties in the earlier part of our history, and was completed by the enactment of the Indian Claims Commission Act of 1946. That Act permitted the Indian Tribes to recover from the United States the fair value of the aboriginal titles to lands taken by the United States (by cession or otherwise) if the full value had not previously been paid.

The Indian Claims Commission has not been available to the Natives in Alaska, in a practical sense, because the great bulk of the aboriginal titles claimed by the Natives have not been taken or extinguished by the United States. The United States has simply not acted.

The extent to which the Natives in Alaska could prove their claims of aboriginal title is not known. Native leaders asserted that the Natives have in the past used and occupied most of Alaska. Use and occupancy patterns have changed over the years, however, and lands used and occupied in the past may not be used and occupied now. Moreover, with development of the State, many Natives no longer get their subsistence from the land.

The pending bill does not purport to determine the number of acres to which the Natives might be able to prove an aboriginal title. If the tests developed in the courts with respect to Indian Tribes were applied in Alaska, the probability is that the acreage would be large—but how large no one knows. A settlement on this basis, by means of litigation if a judicial forum were to be provided, would take many years, would involve great administrative expense, and would involve a Federal liability of an undeterminable amount.

It is the concensus of the Executive Branch, the Natives, and the Committee on Interior and Insular Affairs of the House that a legislative rather than a judicial settlement is the only practical course to follow. The enactment of H.R. 10367 would provide this legislative settlement.

The Committee found no principle in law or history, or in simple fairness, which provides clear guidance as to where the line should be drawn for the purpose of confirming or denying title to public lands in Alaska to the Alaskan Natives. The lands are public lands of the United States. The Natives have a claim to some of the lands. They ask that their claim be settled by conveying to them title to some of the lands, and by paying them for the extinguishment of their claim to the balance.

As a matter of equity, there are two additional factors that must be considered. When the State of Alaska was admitted into the Union in 1958, the new State was authorized to select and obtain title to more than 103,000,000 acres of the public lands. These lands were regarded as essential to the economic viability of the State. The conflicting interests of the Natives and the State in the selection of these lands need to be reconciled. The discovery of oil on the North Slope intensified this conflict. A second factor is the interest of all of the people of the Nation in the wise use of the public lands. This involves a judgment about how much of the public lands in Alaska should be transferred to private ownership, and how much should be retained in the public domain.

PROPOSED SETTLEMENT

The settlement in the pending bill provides for a conveyance to the Natives of 40,000,000 acres of land, for the payment of $425,000,000 from the United States Treasury in installments over a period of ten years, and for the payment of $500,000,000 from mineral revenues that otherwise would go to the State of Alaska.

These acreage and dollar figures represent a carefully considered judgment on the part of the Committee of what would be fair to the Natives, fair to the State of Alaska, and fair to all of the people of the United States, in the light of present day conditions. When determining the amount of land to be granted to the Natives, the Committee took into consideration the land needed for ordinary village sites and village expansion, the land needed for a subsistence hunting and fishing economy by many of the Natives, and the land needed by the Natives as a form of capital for economic development.

The 40,000,000 acres is a generous grant by almost any standard. The number of Natives is estimated to be about 55,000, but less than 40,000 of them live in Native Villages. The rest of them live in cities in Alaska or live outside the State of Alaska. The acreage occupied by Villages and needed for normal village expansion is less than 1,000,000 acres. While some of the remaining 39,000,000 acres may be selected by the Natives because of its subsistence use, most of it will be selected for its economic potential. The land selected is not required to be related to prior use and occupancy, which is the basis for a claim of aboriginal title. Moreover, there will be little incentive for the Natives to select lands for subsistence use because during the foreseeable future the Natives will be able to continue their present subsistence uses regardless of whether the lands are in Federal or State ownership.

In 1967, and again in 1968, the Department of the Interior recommended that the Natives be granted not to exceed 50,000 acres around each Village, which would total less than 10 million acres. In 1969, the Department of the Interior recommended that the Natives be granted between 14 and 16 million acres of land, excluding leasable minerals which would be retained by the United States. In 1971, the Department of the Interior recommended a grant of 40 million acres, including all minerals.

The $925,000,000 figure is an arbitrary one. It is not intended to be related to the value of the lands claimed by the Natives under the doctrine of aboriginal title. The Natives are not a single organized group. They belong to many different clans and villages. The lands claimed by the Natives are claimed in separate parcels by these many different groups. The validity of the Native claims has not been determined, and it is not practical to determine them. The Committee recognizes, however, that the Natives do have valid claims to some lands, undetermined in quantity and in value.

The dollar figure recommended by the Department of the Interior in recent years has ranged from about $7.2 million (the estimated value of all Alaska on the date it was acquired from Russia), to $180 million (but not to exceed $3,000 per capita), to $500 million (based on an estimated $10,000 per capita), to $1 billion to be paid jointly by the Federal and State Governments.

The figure chosen by the Committee, $925,000,000, over half of which will come from the State, is based on the following considerations: the extreme poverty and underprivileged status of the Natives

generally, and the need for adequate resources to permit the Natives to help themselves economically. The Natives constitute about one-fifth of the total population of the State, but they are almost completely lacking in the capital needed to compete with the non-Native population and to raise their standard of living through their own efforts. The money grant in this bill is intended to provide that capital.

GENERAL CONCENSUS

The pending bill is the product of many different views and compromises. As reported by the Committee, it has the endorsement of the leaders of the Alaska Federation of Natives and the Governor of Alaska. The Department of the Interior has informed the Committee that although it had submitted its own bill (H.R. 7432), the pending bill as reported by the Committee will meet the objectives of the Department. The bill was ordered to be reported by the Committee by a voice vote.

ANALYSIS OF BILL

The following analysis is brief, general in nature, and not intended to be exhaustive:

Section 1 contains a short title of the Act.

Section 2 is a statement of policy that states the terms of settlement and disclaims any intention to establish racial rights or institutions.

Section 3 contains definitions.

Section 4 extinguishes all aboriginal titles in Alaska, and all claims based thereon.

Section 5 provides for the preparation by the Secretary of the Interior of a roll of all Alaska Natives.

Section 6 divides the State into 12 regions, and provides for organization under the laws of Alaska of a Native regional corporation in each region. Each Native in the region will receive 100 shares of stock in the corporation. The assets of the 12 corporations will be (1) the $925,000,000 cash settlement provided for in section 7 ($500,000,000 of which will come from the State), (2) the mineral estate in the approximately 18,000,000 acres of land surrounding the Native villages and patented to them pursuant to section 11; (3) fee title to approximately 22,000,000 acres of land patented to the corporations after the State has selected the land to which it is entitled under the Statehood Act and the United States has reserved any additional lands it may need; and (4) income from the investment of the cash and management of the property.

Not less than 40% of the funds that are not invested for the production of income must be distributed to the villages in the region and to the stockholders who are not village residents. The remainder of the funds (after paying administrative and technical expenses) may be used by each corporation only for a loan or grant program to improve the health, education, and welfare of the Natives of the region, or for the payment of dividends to stockholders.

In order that all Natives may benefit equally from any minerals discovered within a particular region, each corporation must share its mineral revenues with the other 11 corporations on the basis of the relative numbers of stockholders in each region.

Each corporation is authorized to approve or disapprove village plans for the use of funds distributed to the villages, and disputes are required to be submitted to arbitration.

Each village must be incorporated under the laws of Alaska either as a municipal corporation or as a membership business corporation in which all residents of the village are members.

Section 7 grants to the 12 regional corporations $425,000,000 from the United States Treasury, payable over 10 years, and $500,000,000 from mineral revenues received from lands patented to the State under the Alaska Statehood Act and from remaining Federal lands, payable in the form of a 2% royalty on the minerals extracted and 2% of bonuses and rentals. There is no time limitation.

Section 8 limits the time for a court contest of the validity of the Act to one year, prohibits such contest by anyone other than the State, and defers State land selections under the Alaska Statehood Act if the State contests the validity of the Act.

Section 9 withdraws from the operation of the public land laws, and from State selection, the 9 townships that surround each village. Within one year, the village must select from this area not less than the equivalent of 4 townships, or the maximum acreage to which it is entitled under section 11. The withdrawal will terminate with respect to the unselected land.

The section makes a second withdrawal of 25 townships surrounding each village, and from this area the village must select within 5 years the remainder of the land to which it is entitled. The withdrawal will terminate with respect to the unselected land at the end of 5 years.

The section also withdraws each section in which a Native claims to have a primary residence.

None of the withdrawals will affect the authority of the Secretary to grant licenses, leases, etc., prior to an actual conveyance of the land pursuant to section 11.

The villages that are subject to the section are listed by name, but in order to be eligible the Secretary must make a finding of fact that the village had at least 25 Natives on the 1970 census enumeration date. The Secretary must delete from the list the name of any village that does not qualify. He may not add to the list.

Section 10 provides for surveys of the lands to be conveyed.

Section 11 provides for conveyance to each eligible village of the surface estate in 3 to 7 townships, depending on village population. Tlingit-Haida villages in Southeastern Alaska are limited to 1 township. The lands conveyed will be those selected from the townships surrounding the village, but if there is a shortage in the case of any village the shortage may be selected from the lands withdrawn around any other village in the same region. These conveyances will take approximately 18,000,000 acres. The subsurface estate will be conveyed to the regional corporations. Conflicts in village selections will be resolved by arbitration.

A Native occupying land outside the village areas as a primary place of residence will get a conveyance of the surface estate in 160 acres. The subsurface estate will be conveyed to the regional corporations.

The following lands will be excluded from the foregoing conveyances:

(*a*) National Park lands.

(*b*) Defense withdrawals other than Pet. 4.

(*c*) Pet. 4 lands in the 16 townships withdrawn beyond the first 9 townships.

(*d*) National Wildlife Refuge lands in the 16 townships withdrawn beyond the first 9 townships.

(*e*) The subsurface estate in Pet. 4 and Wildlife Refuge lands.

(*f*) Lands selected by the State and tentatively approved, except lands equal to 3 townships in the area surrounding each village.

After the time for making State selections has expired (1983, unless extended) the 12 regional corporations may select and get fee patents to additional lands that will make the total 40,000,000 acres. This means approximately 22,000,000 acres in addition to the 18,000,000 acres previously patented to the villages. These lands may be selected from any lands which at the time are not reserved for some other purpose.

Section 12 permits existing timber sale contracts in the Tongas National Forest to be modified by mutual agreement if any of the lands subject to the contract are conveyed to the Natives.

Section 13 withdraws a 9 township area around each of the Tlingit-Haida villages, from which each village may select the equivalent of 1 township.

Section 14 revokes the authority to grant Indian allotments on the public domain, but permits pending applications to be processed, at the option of the applicant.

Section 15 revokes all existing Indian reserves, but allows any village to take title to its reserve in lieu of all other benefits under the bill.

Section 16 establishes a procedure under which the Chief Commissioner of the Court of Claims may allow attorney fees and expenses incurred for services rendered in connection with this bill and prior bills for the same purpose, and for services in the prosecution of claims before the Indian Claims Commission that are dismissed pursuant to this Act. The aggregate of such claims is limited to $1,000,000, which comes out of the $925,000,000 grant to the Natives.

The section also allows payment to the various Native Associations of an aggregate sum of $350,000 for expenses in connection with claims settlement legislation.

Section 17 provides for reports to Congress.

Section 18 authorizes appropriations to carry out the provisions of the bill.

Section 19 authorizes rules and regulations.

Section 20 is a savings clause.

Section 21 is a separability clause.

In addition to the foregoing analysis, the following specific explanations are offered:

(1) The section extinguishing aboriginal titles and claims based on aboriginal title is intended to be applied broadly, and to bar any further litigation based on such claims of title. The land and money grants contained in the bill are intended to be the total compensation for such extinguishment.

(2) The corporate organizations provided for in the bill are intended to avoid the creation of one or more giant corporate entities, based on ethnic origin, that might become in effect the third level of government in the State. Although twelve regional corporations are contemplated,

a substantial portion of the funds received by them must be passed on to the village level. Moreover, the funds used at the village level must be used for the benefit of all residents of the Village, and not restricted to the Native residents. The Committee feels that Village programs should not be discriminatory on the basis of race.

(3) The bill does not establish any trust relationship between the Federal Government and the Natives. The regional corporations and the village corporations will be organized under State law, and will not be subject to Federal supervision except to the limited extent specifically provided in the bill. All conveyances of land will be in fee—not in trust.

(4) Section 9(e) is intended to continue in effect the full authority of the Secretary of the Interior to administer the lands selected by the Natives, prior to the time of actual patent, and to execute contracts, leases, permits, rights-of-way, and easements in accordance with the public land laws notwithstanding the Native selections.

(5) Section 11(i) protects all valid rights in lands that are selected by and patented to Natives, and provides that if the Natives select land that is subject to a conditional lease under section 6(g) of the Alaska Statehood Act, the lease will be treated as though a patent had been issued to the State. The purpose of this latter provision is to prevent the termination of a lease issued by the State which by its terms was made conditional on the issuance of a patent to the State. Selection by the Natives will prevent the issuance of a patent to the State, but the lease will be treated as though the patent had been issued. In other words, the lease will cease to be conditional.

(6) Section 8 gives the State the exclusive right to contest in court the validity of the Act and imposes a one year statute of limitations. This provision does not apply to an action that challenges only the manner in which the Act is administered, rather than its validity.

(7) Section 9(b)(2) permits each Native Village to select an area equivalent to three townships from lands previously selected by the State and tentatively approved under the Alaska Statehood Act. The selections, however, must be within the twenty-five townships surrounding the Village. The Committee was informed that the Governor of Alaska is not opposed to this provision, and we expect that a conflict will be avoided by the Governor's withdrawal of his selection of the lands selected by the Villages.

(8) Section 16 limits the amount of money that may be paid for attorney fees and expenses rendered to Natives in connection with the enactment of this bill. The amount of each fee must be determined on a quantum meruit basis, and the section enumerates several specific factors to guide the Chief Commissioner of the Court of Claims when determining the value of the attorney services. The Committee directs the Chief Commissioner to consider particularly the degree to which the service contributed to the enactment of this legislation, and to use his judgment regarding the value of the service independently of the hourly charge customarily charged by the attorney.

The Committee intends this section to apply to all fees paid to attorneys in connection with this legislation, including fees charged for consulting services.

The Committee does not regard legal expenses incurred in litigation involving the right of the State of Alaska to select land under the Statehood Act or the right of the Secretary of the Interior to grant a

right-of-way for a trans-Alaska pipeline to be expenses incurred in connection with the enactment of this legislation.

(9) The Committee is aware of the fact that some Natives who will benefit from this legislation are employed by the Bureau of Land Management, and that R.S. 452 (43 U.S.C. 11) prohibits Bureau of Land Management employees from acquiring any interest in public lands. The Committee does not regard that statute as applicable to conveyances of land in accordance with the provision of this bill.

COMMITTEE AMENDMENTS

The Committee made several amendments to correct grammatical and typographical errors and to make technical and perfecting changes. The only amendments of substance were the following:

(1) If the Natives obtain patents under the terms of the bill to any lands that are now in the National Wildlife Refuge System, the Secretary of the Interior is directed to replace those lands by including in the System lieu lands at some other location. This will maintain intact the total acreage of the present System. Moreover, under other provisions of the bill the patent to the Natives will reserve to the United States all minerals in the land, and this will prevent mineral development that would be incompatible with the Refuge System.

(2) Another amendment withdraws all unreserved public lands in Alaska that have not been classified by the Secretary of the Interior. The withdrawal is from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The Secretary may terminate the withdrawal at any time with respect to a particular tract of land when he determines that it should be open to disposition and use under the public land laws.

This provision will not affect Native selections under the bill, or State selections under the Alaska Statehood Act, or the right of the Secretary of the Interior to administer the lands and to grant easements, etc., under the general law.

The purpose of this amendment is to permit Native selections and State selections to proceed, but to stop all other dispositions of the public lands, unless the Secretary determines otherwise in specific cases, until a comprehensive land-use plan for Alaska has been prepared.

Legislation providing for such land-use planning is now pending before the Committee on Interior and Insular Affairs and some hearings have been held.

The Committee was urged to expand this amendment so that it would freeze *all* public land transactions in Alaska until after the State land-use plan has been prepared and approved by Congress. The purpose and effect of such action would be to stop further State selections and to stop the grant of a right-of-way for the proposed trans-Alaska oil pipeline. The Committee disapproved this proposal for the following compelling reasons: First, the proposal is not germane to a bill whose only purpose is to settle Native land claims. The proposed freeze would not apply to Native land selections and would not be relevant to any provision of the bill. Assuming the need for land-use planning, if Native selections are to proceed in advance of the plan, as seems to be agreed, there is no justification for tacking the planning provision onto the Native bill. In other words, settle-

ment of the Native claims should not be made contingent upon a freeze of State selections and pipeline easements, which are completely unrelated subjects.

Second, the planning amendment offered to this bill was not considered in the subcommittee, and it was not the subject of any hearings. A subject of such importance should not be rushed through Congress in such manner.

Third, bills to provide for comprehensive land-use planning, and to delay the grant of a pipeline right-of-way, are pending before the Committee on Interior and Insular Affairs. Subcommittee action on the bills has not been completed. Those bills should be considered on their merits and in an orderly manner.

The Committee is aware of an intense letter-writing campaign designed to stop all public land transactions in Alaska, including Native land selections, until a land-use plan has been approved. The proposal to stop Native land selections was so lacking in merit that it was not even presented in Committee, and the other public land transactions are extraneous to the purposes of this bill.

Cost

Enactment of the bill will require an appropriation out of the United States Treasury of $425,000,000 over a ten-year period. In addition, two per cent of the Federal share of mineral revenues from Federal lands in Alaska are authorized to be appropriated and deposited in the Alaska Native Fund for a limited number of years. The Committee estimates that this will amount to approximately $20,000 annually for about fourteen years, which is a total of $280,000.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that the bill, as amended, be enacted.

DEPARTMENTAL REPORTS

The reports of the Department of the Interior, Department of Agriculture, and Department of the Navy follow. As indicated above, however, the Department of the Interior has concurred in the objectives of the bill as reported by the Committee.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., April 27, 1971.

Hon. Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of this Department on H.R. 3100, a bill "To provide for the settlement of certain land claims of Alaska Natives, and for other purposes."

We recommend that the Department's proposed bill, submitted to the Congress on April 6, 1971, and introduced as H.R. 7432 be enacted in lieu of H.R. 3100.

Section 1 of both H.R. 3100 and the Department's proposal is the citation section. They are substantially the same.

Section 2 of both bills contains the language of a Declaration of Settlement. Each declaration is a statement of what is to be accomplished by the passage of the bill. H.R. 3100 goes into detail regarding the historical background of the claims of the Alaska natives, while the Department's proposal contains no such recitation. We believe that the Declaration of Settlement contained in both bills adequately describes their aims. Our proposal's declaration is a necessary part of the bill and we recommend its enactment.

Section 3 of H.R. 3100 provides for the extinguishment of the claims of the Alaska natives based upon their aboriginal title or claim to Alaska. The Department's proposal provides for the extinguishment of the claims of the Alaska natives in section 4.

Section 3 of H.R. 3100 extinguishes the claims of the Alaska natives in three different subsections:

Subsection (a) extinguishes claims to land covered by prior conveyances made pursuant to Federal law.

Subsection (b) extinguishes all aboriginal titles and claims based upon use and occupancy of land in Alaska, including any claim based on hunting and fishing rights.

Subsection (c) extinguishes all claims against the United States, the State, or any other person based on aboriginal right, title, use or occupancy, or that are based on any statute or treaty of the United States, including claims pending before any court or the Indian Claims Commission.

Subsection (a) of section 4 of the Department's proposal declares that the provisions of the proposal are to be regarded as full and final settlement and the extinguishment of any and all claims against the United States, the State of Alaska, and all other persons which are based on aboriginal right, title, use or occupancy of land in Alaska and extinguishes any claims arising under the Acts of May 17, 1884 and June 6, 1900, including claims pending before the Indian Claims Commission. Both sections provide for the extinguishment of native claims based on aboriginal use or occupancy.

Section 3 of the Department's proposal is a definition section that defines terms generally used in the bill. There is no separate definition section in H.R. 3100 but there are definitions of terms in sections 4(i)(1), 4(i)(2), and 11(a). There are three terms that are defined in both H.R. 3100 and the Department's proposal. The first is a definition of "public land". The definitions are similar in that both include all Federal land and interest therein in Alaska and exclude from the definition, land selected by the State as of the date of enactment, that have been patented or tentatively approved under the Alaska Statehood Act, and also land used in connection with the administration of any Federal installation. The provision covering land excluded in connection with a Federal installation is somewhat narrower in H.R. 3100 than it is in the Department's proposal.

The Department's proposal also excludes from the definition of "public land" land within the utility and transportation corridor described in the notice of proposed modification of classification of lands for multiple-use management and notice of proposed classification of lands for multiple-use management as published in the *Federal Register* on January 1, 1970, and corrected on February 4, 1970. This excludes from the definition of "public land" a corridor approximately 12 miles wide following a route from Prudhoe Bay on the North Slope to Valdez, Alaska. This land, in the judgment of the Department as

well as the Department of Transportation, will be needed to allow development of the North Slope. The corridor will be needed for such facilities as transportation, power and communication.

The second term that is defined in both bills is "native village". They are similar in that both definitions require at least 25 natives to reside in a village if it is to qualify as a native village. However, section 4(i)(2) of H.R. 3100 provides that the village must not be modern or urban in character. The Department's proposal states in its definition that a village must be listed in either sections 10 or 14 and must be determined by the Commission as having 25 natives on December 31, 1970.

It is our feeling that both the listing of native villages in the bill and a cut-off date for qualifications of 25 native residents is important to establish definite boundaries for land withdrawals. If the villages are not listed in the bill then for a certain period of time after enactment of the legislation there would be no way to determine what land would be subject to native settlement and what would be available for State selection or other use. It is quite important to establish by the enactment of this legislation the exact land acres that will be available for natives in order to eliminate conflicts in the future. Identifying the village in the bill and tying land withdrawals and patents to specifically defined areas surrounding the listed villages will avoid such future conflicts.

The third term that is defined in both bills is "native". Again there are similarities and differences. Both definitions provide for one-quarter blood quantum. The Department's proposal provides that the Alaska Native Commission will determine those who qualify as meeting the one-quarter degree blood requirement. It also authorizes the Commission to qualify an individual as a native even though he does not meet the blood requirement. H.R. 3100 allows the native village or group to qualify an individual as a native even though he does not meet the blood requirement, however, there are limitations imposed that are not required in the Department's proposal. H.R. 3100 requires United States citizenship as a qualification while the Department's proposal is silent on that question. We believe that our proposed definition is more flexible by giving sole determination to the Commission without any limiting language and further providing for a procedure for judicial review.

Section 4 of H.R. 3100 provides for the land settlement portion of the bill. This section directs the Secretary of the Interior to issue to each Alaska native village a patent to the public land occupied by that village plus additional acreage adjacent to the village site which contains not more than three times the acreage of the village site. Our best judgment is that this will involve patenting in fee to the native villages less than 200,000 acres of land.

Further, section 4 of H.R. 3100 directs the Secretary of the Interior to issue subsistence-use permits covering such additional land as in his judgment is needed for the subsistence of the residents of the villages. The permits shall be issued only after public hearing and in the aggregate shall cover not less than 40,000,000 acres.

Section 4 of H.R. 3100 also provides that the Secretary may convey, upon application made within 7 years after enactment, fee simple title to public land occupied by natives on the date of enactment as a primary place of residence. These conveyances are to be without consideration and the land to be conveyed must be outside of the

areas conveyed to the villages. The conveyances shall not exceed 160 acres, unless the land is located within a national wildlife refuge or the national forest, in which event the acreage shall not exceed eighty acres.

Section 4 contains language authorizing the Secretary to protect the subsistence resources under the use permits issued by him. He may close the area with the Governor's consent to people other than the village residents. It further provides that all dispositions of land, including patents to the State, shall be subject to the subsistence use permits. It also provides for surveys, conveyance from the native village to occupants and certain reservations in Forest Service lands.

The land settlement provisions of the Department's proposal are in sections 10, 12, and 14. These sections guarantee that a total of 40 million acres including both surface and mineral rights will be patented under the terms of our proposed settlement.

Section 10 of the Department's bill provides for the withdrawal of the township in which each native village listed in section 10 is located plus the 8 cornering and contiguous townships. Within a period of one year each village is to select an area equal to three townships from within the cornering and contiguous 8 townships.

Also, section 10 provides for the withdrawal, except for villages located in naval petroleum reserve numbered 4 and wildlife refuges, of the 16 townships cornering and contiguous to the 8 townships withdrawn above.

The withdrawal for Tlingit-Haida villages is for only the township in which the village is located.

Section 12 of the Department's bill provides for the issuance of patents. It provides that each native village will, except for the Tlingit-Haida villages, be entitled to a patent to the surface estate of 4 townships (92,160 acres). If there is adequate public land available, the 4 townships will be made up of the township in which the village is located plus an area equal to three townships from within the 8 cornering and contiguous townships withdrawn. If there is not sufficient public land available then the village will be entitled to the difference from public land withdrawn in some other area. Each native village is to issue deeds to the individuals and organizations occupying land within the area patented to the village.

The Tlingit-Haida villages are entitled to a patent of only one township (23,040 acres) which will be the township in which the village is located.

For those native individuals living outside the areas selected by villages, the Secretary is to issue a patent to the surface estate of 160 acres. This will assure each native of a patent to the land on which he is living.

The mineral estate underlying the land patented to native villages and individuals, including the Tlingit-Haida villages but excluding lands located in wildlife refuges and naval petroleum reserve numbered 4, is patented to the Alaska Native Development Corporation. Additional mineral rights are patented to the Corporation equivalent in acreage to the surface estate patented to native villages located in wildlife refuges and naval petroleum reserve numbered 4.

Within a period of 5 years from enactment of the bill the Corporation is to select from within the areas withdrawn and surrounding the native villages, excluding the land selected by the native villages and excluding land in wildlife refuges and naval petroleum reserve num-

bered 4, a total of 40 million acres reduced by the number of acres patented or to be patented to native villages or individuals under other provisions of the bill. The surface estate of lands selected by the Corporation will be patented to native villages and the underlying mineral estate will be patented to the Corporation.

The Department's decision to provide each native village, other than the Tlingit-Haida villages, with title to the surface of 4 townships where public land is available for this purpose is based upon our belief that each village should have the opportunity to select land to protect its immediate environment. Since the villages will receive only the surface—it is our belief that they will take into consideration in making their selections—their need for such surface, particularly their need for subsistence resources. This will provide each village with a means of selecting the subsistence campsites within the vicinity of the village together with enough land for future growth.

With respect to the Tlingit-Haida villages, as noted above, the Department's proposal is to patent to each villages only one township; the township in which the village is located. The Tlingit-Haida's have already received a judgment in the Court of Claims of $7,500,000 as settlement of their land claims in Alaska. Under our proposal, the individuals will, of course, still be entitled to share equally in proceeds paid to the Corporation through their stock ownership.

As mentioned earlier in this report, H.R. 3100 provides for a relatively small amount of land to be patented in fee coupled with a subsistence use permit of not less than 40 million acres. The Department's proposal, on the other hand, provides for a total of 40 million acres including surface and mineral deposits, to be patented to natives, villages and the Corporation.

With regard to the size of the land portion of the settlement, we feel that 40 million acres is fair and equitable. During the 91st Congress the natives themselves argued that 40 million acres, or approximately 10% of the surface of the State, was sufficient to meet their land needs. We also note that the Alaska Field Committee for Development Planning in Alaska recommended that 40 million acres be made available for native uses. Both our proposal and H.R. 3100 provide that 40 million acres will be available for settlement of the native claims.

Our proposal, however, differs from H.R. 3100 both as to the method of providing the land grants as well as the interest in the land granted. We feel that it is quite important to list the native villages in the legislation and identify the land available for settlement in relationship to the listed villages. We also feel it is quite important for the land settlement to convey to the natives a legal, enforceable interest in the land made available. Under the terms of H.R. 3100 there is no way to determine what land will be available for native use either now or in the future. Also, the natives are given no assurance that the land made available either now or in the future will continue to be available for their benefit. In fact, H.R. 3100 specifically states in section 4(d) that "The issuance of a subsistence use permit shall not preclude the disposition of land or interests therein under the public land laws, but any such disposition shall be subject to the permit until it is revoked or modified by the Secretary, after a public hearing". This language recognizes that the Secretary will retain authority to revoke or modify any subsistence use permit in the

future with no guarantee that the Alaska natives will retain subsistence use rights to 40 million acres. It also imposes a cloud over all patents issued in the future since the Secretary could designate heretofore unencumbered land to native subsistence use after a patent has been issued to a third party including the State.

The Department feels strongly that any land made available for settlement of the native claims should be clearly identified in the bill and all other land in the State should be free from any settlement claim. Only through this method will the rights of natives and non-natives alike be clearly established and the development of Alaska for the benefit of all people be allowed to progress in an orderly manner.

Regarding the type of interest in the land made available for settlement, the Department also feels strongly that this should be a patent rather than a subsistence use permit. As mentioned above, the subsistence use permit not only has the potential for creating conflicting rights between natives and non-natives, but H.R. 3100 would allow the Secretary to revoke existing use permits with no guarantee that the total land subject to such permits would remain at a minimum of 40 million acres.

For this reason the Department has recommended that each village receive a patent to the surface estate for 92,160 acres (excluding the Tlingit-Haida villages). Also, the Corporation is given the authority to select additional land, from within the areas withdrawn for that purpose, for patent to the native villages in addition to the 92,160 acres previously patented. This will allow the Corporation to provide additional land to those villages that need additional subsistence resources. The total surface land grant of 40 million acres will be patented to villages and individuals and will be an enforceable legal right.

The Department further feels that the mineral estate to the land patented to villages and individuals, except for wildlife refuge and naval petroleum reserve numbered 4 lands, should be patented to the Corporation. Not only will this avoid conflicts between native surface ownership and non-native mineral rights but it will also provide the natives with a permanent economic future in the State. Since the Department's proposal provides for the establishment of a single State Corporation, to be owned by all of the natives, they will each share equally in the mineral developments. The mineral deposits have not been used by the natives in the past on a village subsistence basis, as has the land, but instead is included as a part of the total economic settlement. We feel it is very important for these mineral deposits to be available to all of the natives to further their economic future. Granting of a subsistence use permit only, as provided in H.R. 3100, retains the mineral deposits underlying subsistence use lands and would prevent the natives from sharing in this natural resource.

Section 5 of H.R. 3100 allows the State to select and receive patents concurrently with the operations of section 4 of the bill. However, if a conflict develops the rights of natives prevails. As mentioned earlier in this report, the Department's proposal avoids any potential conflict by positively identifying the lands which will be available for patent to native individuals or villages. Under the Department's proposal the State is free to select in areas which are not withdrawn for native benefit. We feel that our proposal provides for a more orderly development of the State.

Section 6 of H.R. 3100 provides that if there are outstanding leases, permits, or licenses on any land patented to the natives pursuant to the provisions of H.R. 3100, the grantee shall succeed to the interest of the United States, except that the United States shall continue the administration of such leases, permits, or licenses. Section 6 also authorizes the Secretary of Agriculture to modify timber sales contracts, with the consent of the contractor, in order to avoid hardships to the natives due to conveyance of land, subject to such contract, to natives.

The Department's proposal contains in subsection 12(f) a provision similar to that of section 6 of H.R. 3100 which entitles a grantee to receive the benefit of any lease, permit, or license made by the United States on land patented to him. Under the Department's proposal there is no authority for the Secretary of Agriculture to modify any existing contracts. We do not feel that there should be any exception in this regard and that land subject to existing agriculture contracts should be patented subject to the contract and the grantee should be entitled to any benefits resulting therefrom.

Section 7 of H.R. 3100 provides for the cash-settlement portion of the bill. It establishes the Alaska Native Fund in the Treasury of the United States and provides that a billion dollars will be paid into the Fund over a period of years. The bill identifies three specific sources from which the total cash settlement is to be paid.

First, $250 million is to be paid at the rate of $25 million a year for each of 10 years from sums appropriated by Congress.

Second, up to $250 million is to be paid from the United States' share of Federal bonuses, rentals, and royalties obtained from the disposition of minerals in public lands in Alaska, not including the Outer Continental Shelf, during the 10 years following enactment of the Act.

Third, $20 million for each of 25 years following enactment totaling $500 million. This money is to be paid from income received by the State from bonuses, rentals and royalties from the disposition of minerals in lands patented to the State after the enactment of the Act, excluding the bonuses received by the State from its September 1969 sale of North Slope land. This sum is also payable from Alaska's share of minerals disposed of by the Federal Government on public land in Alaska. There is a limitation on the amount to be paid by the State into the Fund in any one year of not to exceed one-half of the total funds received by or payable to the State from the sources subject to payment. Deficiencies, however, are carried over to succeeding years.

Under the Department's proposal the Corporation is entitled to receive $25 million a year for 20 years to be paid from the United States Treasury. The bill provides for a permanent appropriation from the Treasury to liquidate this obligation. Through this method of funding the natives will be assured of an annual payment of $25 million to the Corporation.

The Department's proposal also provides for a 2% overriding royalty on all income received by both the United States and the State from rentals, bonuses and royalties from the disposition of minerals on public lands in Alaska as well as lands patented to the State after the date of enactment of this Act, excluding the bonuses received by the State at the September 1969 sale of tentatively approved lands. This payment will continue until the Corporation receives $500 million from this source.

The provisions of H.R. 3100 contain various elements of uncertainty which we believe are avoided in the Department's proposal. Since both H.R. 3100 and the Department's proposal provide for a total cash settlement of $1 billion we feel that the natives should be assured of receiving this amount in full. It is for this reason that the Department has recommended, as mentioned above, that the Federal contribution be worded in such a fashion that the natives will be assured of receiving $25 million a year for 20 years.

The time limitations of H.R. 3100, 10 years in one instance and 25 years in the other, could result in a loss to the natives of an undetermined amount of revenue.

For example, currently the Federal Government is receiving less than $1 million a year from mineral revenues in Alaska. Imposing a 10-year limitation on the period of time over which this portion of the settlement is to be paid could reduce the total payment from this source well below the $250 million ceiling. According to our best estimates at this time, the Federal share of income from this source over the next 3 to 5 years will not rise appreciably. The difficulty in developing a transportation system for the development and extraction of these mineral deposits is indicative of the problems. At this point it would be well to point out that the Department's proposal contains, in section 13, a competitive leasing system which we feel is necessary if the Federal Government is to realize the true value of mineral deposits in Alaska. This will help return a larger share of cash to the Federal treasury in the future, however, even so we would have concern that over a 10-year period after the enactment of this Act a total of $250 million may not be realized.

Under H.R. 3100 the second $500 million is to be paid from the State's bonuses, rentals and royalties received over the next 25 years from disposition of mineral deposits in State lands and from the State's share from disposition on Federal lands. Again we are afraid that the total amount anticipated will not be realized. Presently the State is recieving approximately $14 million per year from this source, $8 million of which is from Federal lands. Since the bill limits the payment in any one year to one-half of the amount received by the State, currently the State would only pay $7 million into the Fund. Even though deficiencies (amounts paid below $20 million per year) are carried to succeeding years, there is still a 25-year cut-off. Therefore, we would have difficulty in assuring the natives that they would receive the full $500 million over the 25-year period.

The Department, therefore, believes that the method of payment as set forth in its proposal is preferable to the method established in H.R. 3100.

Both section 8 of H.R. 3100 and section 8 of the Department's proposal provide that all patents issued to the State after the enactment of the Act shall contain language imposing an obligation to make the required payments. Both sections suspend State selection rights if the State becomes a party to litigation to contest the validity of the revenue sections and bar any actions brought to so contest such validity after one year from enactment.

Section 9 of H.R. 3100 provides for quarterly payments from the Fund to the Alaska Native Investment and Distribution Agency. As mentioned earlier, the Department's proposal provides for payments to the Corporation.

Section 10 of H.R. 3100 establishes an Alaska Native Investment and Distribution Agency consisting of the Governor of Alaska, the Speaker of the House of Representatives of Alaska, the President of the Senate of Alaska, and 4 natives appointed by the Governor, with the advice and consent of the Alaska Senate.

The section sets out the functions of the Agency which are generally to invest its funds in a manner that will maximize the financial interest of the natives, to maintain the current ownership record of native investment certificates, to make periodic income distributions and to distribute the assets upon liquidation.

The agency is authorized to hire staff, including an investment management group, is subject to annual audit, and shall call a referendum to determine whether or not to liquidate upon petition of holders of not less than 20% of the investment certificates. No referendum shall be held for the first 25 years and thereafter at not more often than 5-year intervals. Liquidation shall only be by majority vote of certificate holders.

Under the terms of the Department's proposal a Corporation is established under the laws of the State of Alaska. The Corporation will be governed by a board of 17 members, composed of 1 member elected by the stockholders from within each of 12 regions in Alaska and the other 5 members will be elected by all the stockholders. For a period of 20 years, the Corporation is given certain special powers in addition to general corporate powers under the State of Alaska. Ten shares of stock are issued to each enrolled native with certain restrictions on alienation for a 20-year period.

Under the terms of the Department's proposal, the Corporation will not only receive the cash contribution of the settlement but it will also receive title to all of the mineral rights granted under the terms of the bill and select the additional surface estate of land to be patented to the native villages. The Corporation will very rapidly become an important element in the economic development of the natives in Alaska. The permanency of a corporate form as well as the protection against personal liability of its officers and directors is quite important given the nature of this undertaking.

The Agency as established in H.R. 3100 will be subject to political change. It is not established as a legal entity with any defined duties, powers and responsibilities. Suits if filed would be against the members personally rather than against a corporate entity. Control would be completely within the hands of the three persons holding political positions within the State and the four natives after appointment by the Governor. The natives would have no vote nor voice in the management of the Agency.

Under the Department's proposal the native stockholders will elect all 17 board members. Each board member will serve for a 4-year term, except for the initial board. Control is completely within the hands of the Alaska natives. They will control not only the cash contributions but they will select additional land the surface of which will be patented to native villages and will control the development of all minerals patented to the Corporation. Our proposal is a reflection of the President's own interest in strengthening the management by Indian groups of their own institutions and organizations of government, as set forth in the President's message to Congress on July 8, 1970.

Under the terms of the Department's proposal it is essential that a corporation rather than an agency be established as the legal structure to administer these functions in the State.

Section 11 of H.R. 3100 directs the Secretary, within two years after its enactment, to prepare a roll of all Alaska natives. It defines the term "native".

The section also directs the Secretary to issue to each enrolled native 100 native investment certificates. Each certificate entitles the holder to an equal share of agency distributions. Holders of certificates are specifically prohibited from transferring or incumbering the certificates except at death.

Under the terms of the Department's proposal the Alaska Native Commission is to prepare the roll listing all natives born on or before December 31, 1970 and living on the date of enactment. The Commission in the Department's proposal is composed of 3 Presidential appointees who will meet in Alaska and among other duties be responsible for the roll. Since it is our hope that legislation to settle the Alaska native claims will pass this year, December 31, 1970 was used as a year end cut-off date for purposes of qualification for enrollment.

Under section 11 of H.R. 3100 natives will receive investment certificates which can never be transferred except upon death. The Department's proposal provides for the issuance of stock to each native with restrictions on alienation for the first 20 years. We see no justification for forever prohibiting individual native disposition of ownership in the agency. Furthermore, a prohibition against alienation except upon death will compound the already continuing problem of Indian fractional ownership through inheritance. A certain amount of time will be required to establish the corporate structure and to make the cash payments required under the Department's bill. For this reason, we recommended a 20-year restriction on alienation. Under the agency concept, as set forth in H.R. 3100, the structure has no independent legal status and perhaps for this reason it was felt that ownership should not be transferred. H.R. 3100 seems to anticipate that the agency will be liquidated and of course once this took place an individual native could transfer the assets received upon liquidation. The Department, however, feels that the structure established to administer the cash contributions, as well as receive the mineral rights, should be a permanent and legally established structure and that there should be no incentive for liquidation. Therefore, at the end of the initial 20-year period a native should be free to transfer his stock in the event he wants to do so.

Both H.R. 3100 and the Department's proposal provide for various tax exemptions. H.R. 3100 provides that funds received by the Agency from the Fund, investment revenues received by the Agency, and investment certificates received by the natives shall not be subject to Federal or State taxation. Distributions received by certificate holders will be subject to taxation. The Department's proposal provides that until June 30, 1992, stock in the Corporation will not be subject to Federal or State estate or inheritance tax nor will the annual contributions to the Corporation or income received prior to June 30, 1992 from disposition of minerals be subject to Federal or State tax laws.

Since under the terms of H.R. 3100 investment certificates can be transferred at death, it would seem justified to exempt them from

inheritance tax as proposed in the Department's proposal relative to stock certificates. Also, H.R. 3100 exempts all investment income received by the Agency from taxation. We see no justification for exempting earned income from taxation after the contributions from the Fund have been made. Of course, under the Agency concept there might be a problem regarding the inclusion of earned income in the taxable income of the individual members of the Agency. Exemption of earned income from taxation might be the only way to avoid this problem, however, under the Department's proposal of a corporate entity problems of adverse tax treatment for individuals is avoided.

Both section 13 of H.R. 3100 and section 16 of the Department's proposal provide for revocation of the various reserves set aside for the natives of Alaska, however, specifically excluding the Annette Island Reserve.

Section 14 of H.R. 3100 preserves the right of the Secretary to establish a townsite on St. Paul Island and the right of the natives of the Pribilof Islands to acquire tracts pursuant to the Act of November 2, 1966 and to participate in this Act. We have not included a similar provision in the Department's proposal and feel that it is not necessary to accomplish the same result.

Section 15 of H.R. 3100 provides that the Secretary of the Treasury shall pay from the Fund certain authorized attorney's fees, and claims filed by Alaska native associations in connection with the settlement. Attorney's fees and expenses are divided into three groups depending on when the service was rendered as follows: (a) before January 1, 1964; (b) between January 1, 1964 and December 31, 1967; and (c) after January 1, 1965. A specific amount of money is authorized for each period plus a specific amount for native associations all as determined by the court of claims.

The Department's proposal, in subsection 4(b), authorizes the Corporation to pay reasonable attorneys' fees and reasonable attorneys' expenses, as determined by the Secretary, in pursuing before the Indian Claims Commission any claims pending before that Commission on the effective date of the Act which are dismissed pursuant to the Act. Two hundred fifty thousand dollars is provided in section 7 to pay these fees and expenses. The Department's proposal does not provide for paying the fees and expenses of attorneys who have represented the natives in the pursuit of the settlement of their claim before the Congress. We believe that these fees and expenses should be paid out of the settlement and that the natives themselves can and should determine what those fees and expenses should be.

Both section 16 of H.R. 3100 and section 2(d) of the Department's proposal provides that this Act shall not constitute a precedent for reopening or legislating on any past settlement involving land claims or other matters by any native organization or any Indian group.

Section 17 of H.R. 3100 directs the Secretary, after consultation with other agencies of the United States, to initiate promptly a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska native people from the United States to the State of Alaska. It further provides that within 5 years after the date of the Act, the United States shall cease to provide services to any citizens of Alaska solely on the basis of racial or ethnic background, provided that nothing

in the section shall affect services furnished the natives by the Department of Health, Education, and Welfare or diminish the applicability of the Act of April 16, 1934, or the Acts of September 23, 1950 and September 30, 1950.

The Department's proposal does not set a definitive termination date for services extended to the natives of Alaska under various Federal programs. In keeping with the President's policy of self-determination for Indians, our proposal will allow the natives of Alaska to continue to avail themselves of Federal programs. We do not feel that a definite cut-off date for Federal services for Alaska natives is justified.

The Department's proposal contains certain provisions which are not found in H.R. 3100 and which we feel are important in any legislation to sell Alaska native claims. One of these provisions is section 5 which establishes the Alaska Native Commission which will be in existence for a period of 20 years. The Commission is composed of 3 members appointed by the President with the advice and consent of the Senate. Natives are not prohibited from serving on the Commission, however, a native may not participate in a matter in which he has a personal interest. Our proposal establishes certain procedures which the Commission must follow and assigns it specific duties. Among its duties are: (1) to determine who qualifies as a native; (2) to determine what villages qualify as native villages; (3) the preparation of the roll; (4) the appointment of incorporators for the Corporation and approval of the articles; (5) the establishment of geographic regions; (6) the issuance of rules and regulations for land transactions; and (7) the submission of reports to Congress.

Due to the magnitude of the functions which the Commission must perform, we feel that a full-time group operating in Alaska is necessary to perform these duties and they should not be left to the Secretary of the Interior. Also, under the policy of self-determination an independent Commission which may be composed in whole or in part by natives is important in carrying out these essential activities.

The provisions of section 9 of the Department's proposal, dividing the State into twelve geographic regions, are of course a necessary part of the structure of the corporate board of directors.

Section 13 of the Department's proposal provides that, except for naval petroleum reserve numbered 4, all minerals included under the mineral leasing laws located in Alaska shall be disposed of only by competitive bidding. The present knowledge regarding the location of valuable leasable mineral deposits in Alaska is limited. It is therefore not possible to know with any degree of certainty what lands should be open for mineral development only on a competitive basis and what lands should be opened on a non-competitive basis. For this reason, in order to assure the Alaska natives of a realistic time frame in which to receive $500 million through the 2% overriding royalty it was determined that a total competitive system for leasable minerals should be imposed in Alaska.

Section 11 of the Department's proposal establishes the duties of the Secretary to survey certain land which will be utilized in the settlement. This is necessary in our proposal because of the large amount of land that will be patented under the bill.

Section 14 of the Department's proposal provides for the settlement of the Tlingit-Haida claims. Special treatment for these natives is

necessitated by the fact that the Tlingit-Haida Indians have already received a court settlement of their claims.

The remaining sections of the Department's proposal, 15, 17, 18, 19, 20, and 21 are discussed in our report.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of the Department's proposal would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 5, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft bill "To provide for the settlement of certain land claims of Alaska natives, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

This bill sets out the recommendations of this Administration for solution of the land claims of Alaska natives.

The proposed bill, through a combination of providing land and money as settlement for the native claims, will provide an equitable solution to the claims made by the natives of Alaska. It will, on the one hand provide land that is necessary for the living and subsistence needs of those natives who continue to rely upon the land for their living, while at the same time provide an economic settlement both in terms of cash contributions and patents to land and mineral rights which we consider to be generous and equitable which will be used by the natives for promoting their economic development to the fullest extent possible. It is our firm belief that the economic development of the Alaska natives will be of benefit, not only to themselves, but to all of Alaska as well as all Americans.

Following is a discussion of the basic provisions of our proposed bill:

Section 1 of the bill is a citation section and provides that the Act may be cited as the "Alaska Native Claims Settlement Act of 1971".

Section 2 of the bill sets forth the Declaration of Policy. It states that Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by natives and native groups of Alaska. It further states that the intent of the bill is to provide: (1) a right for natives to receive certain land occupied by them, (2) a grant to incorporated native villages for community use and expansion, (3) a grant of $500 million to the native Corporation, (4) a grant to the native Corporation of mineral rights in certain patented lands, (5) a grant of certain additional lands to incorporated native villages, and (6) a right to receive a portion of the revenues from the leasing and sale of mineral resources up to a total of $500 million.

Section 2 also provides that it is the intent of Congress to accomplish these ends with rapidity and with certainty and in conformity with the economic and social needs of the Alaska natives, but without establishing any permanent racially defined institution, rights, privileges, or obligations, without creating a reservation system or a lengthy ward or trusteeship; without adding to the categories of property or institutions that enjoy special tax privileges; or without adding to the legislation that has established special relationships between the United States and the State of Alaska.

Section 2 makes it clear that no provision of the Act is intended to replace or diminish any right, privilege, or obligation of any Alaska native as a citizen of the United States or of Alaska, or diminish any obligation of the United States or Alaska to protect or promote the rights and welfare of the natives as citizens. Section 2 also makes it clear that no part of this Act shall consitute a basis for renegotiating or legislating upon any past settlement involving the land claims of any American Indian, or constitute a precedent for any other settlement.

Section 3 of the bill is a definition section in which are defined the terms that are commonly used throughout the bill. Excluded from the definition of "public land" are improved lands used in connection with any Federal installation, lands which have been patented or tentatively approved for patent to the State and lands within the utility and transportation corridor.

Section 4 of the bill contains the Declaration of Settlement. It provides that this Act is to be regarded as full and final settlement and extinguishment of any and all claims against the United States, the State of Alaska or others based upon the aboriginal title, right, use, or occupancy of land in Alaska by the natives. It also provides for payment of attorneys' fees by the Government in connection with claims pending before the Indian Claims Commission that are dismissed pursuant to the provisions of this Act.

In setting the compensation to be received by the attorneys, we believe that the payments should be based on proof of work performed in connection with the pending claims, with the amount of the payment being based upon an hourly rate for the hours of proven work. The hourly rate paid each attorney would be that rate generally recognized for attorneys practicing in the area where each of the claimant attorneys practice. Our investigation of the cases pending before the Indian Claims Commission reveals that $250 thousand will be more than adequate to cover the compensation of the attorneys handling the pending cases and we have added this sum to the amount that the Secretary is directed to pay to the Corporation in fiscal 1973 by section 7(h) of the bill to cover such costs.

Section 5 of the bill creates the Alaska Native Commission. The Commission will be made up of three members, all of whom are to be appointed by the President with the advice and consent of the Senate. The Commission shall exist until June 30, 1992. The Commission terms are for three years with the terms being staggered. The Commission will be located in Alaska and will have necessary staff to support its work. The principal functions of the Commission are: (1) to determine who qualifies as natives and what villages qualify as native villages, (2) the preparation of the roll of natives, (3) the appointment of incorporators of the Alaska Native Development Corporation, (4) the establishment of geographic regions, (5) the

issuance of rules and regulations and the approval of land transactions, (6) the submission of required reports to Congress, and (7) any other duties required by the Act.

Section 6 provides for the enrollment of the Alaska natives. The roll will be prepared by the Commission under rules and regulations issued by them and will be a listing of the natives of Alaska born on or before December 31, 1970, and living on the date of enactment of the Act. The section directs the Secretary of the Interior to make available to the Commission for their use in connection with the preparation of the roll such personnel, services, and material as he deems reasonable. This will allow the Commission to draw upon the resources and expertise of the Bureau of Indian Affairs in connection with the preparation of the roll.

Section 7 authorizes the establishment of the Alaska Native Development Corporation as an Alaskan corporation, and subjects it to the provisions of this Act for a period of 20 years. The Corporation is to be formed by five incorporators appointed by the Alaska Native Commission. The management of the Corporation shall be vested in the Board of Directors made up of 17 members elected by the stockholders; one member will be elected by the stockholders living in each of the 12 regions determined by the Commission pursuant to section 9 of this bill. The other 5 members will be elected at large by all of the stockholders. The terms of the directors is 4 years with a provision for staggering the terms of the initial board with lots to be drawn to determine who shall serve the short terms.

The Corporation is authorized to have a president and such other officers as may be named and appointed by the board at rates of compensation approved by the board. The other employees of the Corporation shall be appointed by the president. The employees are subject to standards and requirements similar to those applicable to Federal civilian employees but are not employees of the Federal Government.

This section gives the Corporation general corporate authority but provides for some additional authority in order to foster native development. This Corporation will, of course, have authority to establish subsidiary corporations on a regional basis, or any other basis the natives desire. There is a limitation placed on the amount of money the Corporation may use for dividends or unsecured loans in any one year. Certain of the Corporation's income is excluded from Federal and State tax laws.

The section authorizes the issuance of one million shares of common stock, which stock shall for the first 20 years of the life of the Corporation be issued only to natives, ten shares to each native. We have prohibited the alienation of stock in the hands of the natives until June 30, 1992, except for provisions for disposal at death. The stock is exempt from Federal or State estate or inheritance taxes until June 30, 1992. The section makes the Corporation subject to audit by the General Accounting Office until June 30, 1992.

The section provides for a payment to the Corporation of $500 million to be made over a period of 20 years by the Secretary of the Interior beginning with fiscal year 1972, with a provision for an initial payment to the Corporation of $1 million as soon as it is organized. An additional $250,000 is to be paid in the first year to be used to pay the fees of attorneys who handled claims of the Alaska natives before the Indian Claims Commission.

Section 8 of the bill provides that 2 percent of all revenues received from the disposition of minerals in the State of Alaska shall be paid to the Corporation. The 2 percent override will apply to revenues received both on Federal lands in the State as well as lands patented to the State of Alaska. This section will be applicable until the Corporation receives a total of $500 million after which time the overriding royalty will cease.

Section 8 also provides that in the event of default by the State of Alaska in making payments due under this section there shall be deducted annually and paid to the Corporation the amount of any underpayment from the share of mineral revenues from public lands otherwise payable to the State. It further provides that in the event the State initiates litigation or becomes a party to litigation to contest section 8, the Secretary shall have authority to suspend State selection under the Alaska Statehood Act for certain lands. Any action brought to contest section 8 must be instigated within one year after the date of this Act or otherwise be barred.

In the final analysis, legislation on this subject represents an agreement among three parties—the Alaska natives, the State of Alaska and the United States Government. We believe it should be clearly understood among the parties concerned that the State of Alaska has an interest and shares a responsibility in reaching an equitable settlement of the Alaska Native Land Claims. The revenue sharing and other provisions of the Administration's draft bill reflect our best judgment regarding the part of the settlement which should be the State's responsibility. Certain of the provisions of the revenue sharing section seek to assure State cooperation and compliance. In any event we believe the contribution of the United States that is reflected in the bill is a fair settlement between the natives and the United States. We do not believe the United States would have a responsibility to increase its contribution now or in the future if the State were to fail to meet the State's obligations as specified in the bill.

Section 9 of the bill provides for the Commission to divide the State of Alaska into 12 geographic regions with each region being composed, as far as practicable, of natives having a common heritage and sharing common interests. The bill sets out that the 12 regions shall, unless good cause is shown to the contrary, be approximately the areas covered by the 12 existing native associations and lists those associations. It provides that any disputes over boundaries of any region shall be determined by the Commission and its determination shall be final.

Section 10(a) provides for the revocation of existing public land orders which have withdrawn all public lands in the State of Alaska. It then provides that except for land for national defense purposes other than naval petroleum reserve numbered 4 and land in the National Park System, each township in which a native village, as listed in subsection (a)(2) of section 10, is located and each contiguous and cornering township shall be withdrawn. Within a period of one year, each native village is to select an area equivalent to three townships from the cornering and contiguous townships withdrawn. At the end of the one-year period all villages and except those in the National Wildlife Refuge System or naval petroleum reserve numbered 4, shall be subject to the provisions of subsection (b) and shall be deemed to have been withdrawn under the provisions of said subsection. At the end of said one-year period, the withdrawal of all

contiguous and cornering townships in the National Wildlife Refuge System and naval petroleum reserve numbered 4 which have not been selected by the native village shall terminate.

Paragraph 2 of subsection (a) lists the native villages with the exception of the Tlingit-Haida villages which qualify for withdrawal under the provisions of section 10.

Subsection (b) provides for the withdrawal of all public land, with the exception of land withdrawn for national defense, including naval petroleum reserve numbered 4 and land in the National Park System and the National Wildlife Refuge System, in the contiguous and cornering townships surrounding the townships withdrawn under paragraph 1 of subsection (a) of section 10.

Subsection (c) provides for withdrawal of each section in which a native has his primary place of residence on December 31, 1970, if such place of residence is outside the boundaries of townships withdrawn for the village. Excepted from this withdrawal are National Park System lands and lands withdrawn or reserved for national defense purposes, except naval petroleum reserve numbered 4. Any native who is to qualify for land under this subsection must file his application for a determination of occupancy with the Commission within two years after the effective date of the Act.

Subsection (d) provides for the continuation of present management of land withdrawn under the provisions of section 10 and section 14. This management will continue until the land is either patented or returned to its use prior to withdrawal.

Subsection (e) provides that withdrawals made pursuant to subsection (b) shall terminate 5 years after the date of enactment of this Act except for those lands or interest therein designated for disposition by the Corporation pursuant to section 12 (a), (d) or (e). It further provides that withdrawals made pursuant to subsection (c) of this section may be terminated by the Secretary upon issuance of a patent to the native occupying such land or upon the relocation of such native. Withdrawals made pursuant to subsection (a) of minerals located in naval petroleum reserve numbered 4 may also be terminated by the Secretary prior to the termination of such withdrawal.

Section 11 provides that the Secretary will survey the areas selected or designated for patent to incorporated native villages. He shall monument only exterior boundaries at angle points and at intervals of approximately one mile on straight lines. No ground survey or monumentation shall be required along meanderable water boundaries. He shall also survey within such areas land occupied as a primary place of residence, a primary place of business, or for other purposes.

Section 12(a) provides for patenting to incorporated native villages of the surface of 92,160 acres of land from the withdrawn areas selected by the listed villages. The patenting of 92,160 acres is dependent upon that amount of land being available from the public domain surrounding the village. In the event there is not sufficient public land surrounding an incorporated native village to patent to it 92,160 acres, the Secretary is authorized to patent other land, designated by the Corporation, to such village to make up the difference.

This subsection further provides that upon receipt of patents by the incorporated native village, the village shall then issue deeds to native occupants of land within such area, without consideration, of tracts occupied by them as residences, places of business, subsistence campsites or reindeer husbandry. It also provides that the villege will deed

to non-natives and nonprofit organizations land occupied by them either without consideration or upon payment of fair market value as determined on the date of initial occupancy without regard to improvements, provided that all in the same general character are accorded similar treatment.

Subsection (b) provides for patenting of the surface of 23,040 acres of land to the Tlingit-Haida villages listed in section 14 of the bill. The provisions for patenting land to natives, non-natives, and nonprofit organizations under subsection (b) is identical to the provisions set forth above under subsection (a).

Subsection (c) provides for the patenting of the surface of 160 acres of land within the sections withdrawn under the provisions of subsection 10(c) of the bill to those natives occupying such land as a primary place of residence of the effective date of this Act.

Subsection (d)(1) provides that within 5 years from the date of enactment of this Act the Corporation shall designate additional land for the benefit of each native village from within areas withdrawn under subsection (b) of section 10. The land designated under this subsection shall total 40 million acres reduced by the number of acres patented or to be patented to individuals or incorporated native villages pursuant to (a), (b), and (c) of section 12. Certain criteria is set forth in this subsection for the Corporation to use in making such determinations. This section will guarantee that the total land settlement provided for in this bill is 40 million acres.

Paragraph 2 of subsection (d) provides that the Secretary will issue a patent to the surface estate for such land designated for the benefit of each native village simultaneous with or as soon as possible thereafter, the issuance of a patent for land to the incorporated native village under subsection (a) of this section.

Subsection (e) provides that contemporaneous with the issuance of the patents to the surface provided for in subsections (a), (b), (c) and (d) of section 12, the Secretary shall, with the exception of those lands located in the National Wildlife Refuge System and land withdrawn or reserved for defense purposes including naval petroleum reserve numbered 4, issue a patent to the Corporation for all the minerals covered by the mining laws and the mineral leasing laws, such mineral patent to be without payment and subject to valid existing rights. Where those villages are located in naval petroleum reserve numbered 4 and the National Wildlife Refuge System, the Secretary shall patent to the Corporation the mineral interest in lands withdrawn under subsection (b) of section 10 as designated by the Corporation equal to the number of acres the surface estate of which is patented to villages located in the National Wildlife Refuge System or naval petroleum reserve numbered 4.

Subsection (f) provides that where prior to the issuance of a patent to any land under this section, a contract, lease, or permit has been issued for the utilization of mineral or surface resources, such patent shall be subject to such contract, lease, or permit and the patent will contain language so providing.

It further provides that all income derived from such lease, contract, or permit shall be paid to the patentee but the administration of such lease, contract, or permit shall continue to be conducted by the lessor, contractor, or permitter.

Section 13 authorizes the Secretary to dispose of all deposits of minerals included under the mineral leasing laws located in Alaska,

excepting those minerals in naval petroleum reserve numbered 4, only by competitive bidding.

Section 14 provides for the settlement of the Tlingit-Haida claims. It authorizes in subsection (a) the withdrawal of the township enclosing the villages listed in section 14.

Subsection (b) provides that the distribution of funds awarded the Tlingit-Haida in the Court of Claims case and made pursuant to Public Law 91–335, is in lieu of the additional townships awarded the native villages in section 12.

Subsection (c) extinguishes the claims of the Tlingit-Haida Indians including the 2.6 million acres of land referred to in their Court of Claims case.

Section 15 repeals those provisions of law that allow Indian allotments in Alaska. We believe that these provisions should be repealed since this bill makes what we consider to be adequate land provisions for the natives of Alaska.

Section 16 provides that the existing reserves that have been set aside by any means for natives use or administration of their affairs are revoked when such revocation is not inconsistent with the provisions of this Act. This provision does not revoke the Annette Islands Reserve because the revoking of such reservation would be inconsistent with the provisions of this Act since the Tsimshian Indians are not included in the settlement made by this bill.

Section 17 provides that the Commission and the Secretary shall submit annual reports to the Congress. On June 30, 1992, the Commission and the Secretary are to submit through the President a joint report of the status of the natives, a summary of actions taken, together with recommendations for the continuation or modification of the Act.

Section 18 contains the authorization for appropriations to the Secretary of the Interior and the Commission of the sums that will be necessary to carry out their functions and responsibilities under the Act.

Section 19 is a publication section and authorizes the Secretary of the Interior to publish in the *Federal Register* such regulations as may be necessary to carry out the purposes of the Act.

Section 20 is a savings-clause provision.

Section 21 provides that if any provision of this Act is held invalid the remainder of the Act shall remain valid.

In the preparation of this proposed legislation, the Department has had the benefit of the advise and views of the representatives of the Alaska Federation of Natives, with whom, not only I, but the Vice President and members of the President's personal staff have been in close consultation.

This consultation is a direct result of the President's and Vice President's interest in seeing to it that Indian and native peoples are informed about and involved in the Administration's treatment of matters which, like this legislation, so directly affect their lives.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON.
Secretary of the Interior.

Enclosure.

A BILL To provide for the settlement of certain land claims of Alaska natives, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1971".

DECLARATION OF POLICY

SEC. 2. (a) Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by natives and native groups of Alaska, and that the purpose of this Act is to provide—

(1) a right for natives to receive land occupied by them as a primary place of residence or a primary place of business;

(2) a grant of land to the incorporated native villages for community use and expansion;

(3) a grant to the native Corporation of $25 million per year for 20 years beginning in fiscal year 1971;

(4) a grant to the native Corporation of the mineral rights in certain lands patented to individuals and incorporated native villages;

(5) a grant of certain additional land to the incorporated native villages; and

(6) a right for the native Corporation to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska.

(b) It is the intent of Congress to accomplish these aims rapidly, with certainty, and in conformity to the real economic and social needs of Alaska natives by avoiding litigation, by maximizing the participation by natives in decisions affecting their rights and property and by vesting in them as rapidly as prudent and feasible control over the land set aside and the Corporation organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy wardship or trusteeship; or (3) adding to the categories of property and institutions enjoying special tax privileges or to the legislations establishing special relationships between the United States Government and the State of Alaska.

(c) No provision of this Act is intended to replace or diminish any right, privilege, or obligation of Alaska natives as citizens of the United States or of Alaska, nor to relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights of welfare of Alaska natives as citizens of the United States or of Alaska.

(d) No provision of this Act shall constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any native organization, or any tribe, band, or identifiable group of American Indians.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "native" means any Alaska Indian, Eskimo, or Aleut who the Commission determines to be of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, and any

other individual who the Commission determines to be a native under rules and regulations that it shall establish, but does not include any Tsimshian Indian;

(c) "native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in section 10 or 14 of this Act and which the Commission determines was on December 31, 1970, composed of twenty-five or more natives;

(d) "Commission" means the Alaska Native Commission established by this Act;

(e) "public land" means all Federal land and interests therein situated in Alaska except: (1) any improved land used in connection with the administration of any Federal installation; (2) land selections of the State of Alaska which have been patented or tentatively approved under the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 223); and (3) lands within the utility and transportation corridor which are described in the notice of proposed modification of classification of lands for multiple use management (Serial Nos. AA2779 and F-955) and the notice of proposed classification of lands for multiple use management (F-12423) published in the *Federal Register* on January 1, 1970 (35 Fed. Reg. 16-17), as corrected on February 4, 1970 (35 Fed. Reg. 2537).

(f) "Corporation" means the Alaska Native Development Corporation authorized to be established pursuant to this Act under the laws of the State of Alaska.

(g) "person" means any individual, firm, corporation, association, or partnership; and

(h) "incorporated native village" means any native village incorporated as a governmental unit under the laws of the State of Alaska.

DECLARATION OF SETTLEMENT

SEC. 4. (a) The provisions of this Act shall be regarded as full and final settlement and extinguishment of any and all claims against the United States, the State of Alaska and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska by any native or native group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), including claims pending before the Indian Claims Commission on the effective date of this Act.

(b) The Corporation may pay all reasonable attorney's fees and reasonable attorney's expenses, as determined by the Secretary in pursuing before the Indian Claims Commission any claims pending before the Indian Claims Commission on the effective date of this Act which are dismissed pursuant to this Act.

ALASKA NATIVE COMMISSION

SEC. 5. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence until June 30, 1992, and shall be composed of three members to be appointed by the President, all of whom upon appointment shall be full-time Federal employees. The Commission members shall be appointed with the advice and consent of the Senate. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the

members of the Commission, but this provision shall not be deemed to preclude a native from serving as a member: *Provided*, That such native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commission shall be three years, except that the first Commission shall be composed of one member appointed for a one-year term, one member appointed for a two-year term, and one member appointed for a three-year term. Any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member of the Commission may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall receive compensation at a rate equal to that provided for in level V of the Executive Schedule and section 5316 of title 5, United States Code. The other two Commissioners shall receive compensation at a rate equal to that provided for grade GS–18 in section 5332 of title 5, United States Code. All Commission members may be allowed travel and transportation expenses authorized by law when engaged in the performance of services for the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it shall hold hearings or conduct other proceedings at any other place mutually agreed to by the Chairman of the Commission and the person involved in the hearing and proceeding. The Commission shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members, but any one member upon order of the Commission shall conduct any hearing or other proceeding provided for in this Act and submit the transcript of such hearing or proceeding to the entire Commission for its action thereon. Such transcript shall be made available to the parties before any final action of the Commission. An opportunity to appear before the Commission shall be afforded any party prior to any final action affecting such party and the Commission may afford the party an opportunity to submit additional evidence as may be required for a full and true disclosure of the facts. Each official action of the Commission shall be entered of record and its hearings and records thereof shall be open to the public. The Commission is authorized to make such rules and regulations as it deems necessary for the orderly transaction of its proceedings, which shall provide for adequate notice of hearings or other proceedings, to all parties.

Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents and administer oaths. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record which notice shall state the name of the witness and the time and place of the taking of his deposition.

(g) Each decision made by the Commission shall show the date on which it was made and shall bear the signature of the members of the Commission who concur therein and, upon issuance of a decision under this Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any member in support of, or dissenting from, any decision.

(h) Any decision issued by the Commission under this section shall be subject to judicial review by the United States district court in Alaska upon the filing in such court within thirty days from the date of such decision of a petition by the person aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which such decision complained of was issued. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commission for such further action as it directs. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the petitioner is located and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(i) The duties and responsibilities of the Commission shall for the purposes of this Act, among others, be:

(1) the determination of those individuals that qualify as natives and those villages that qualify as native villages and the issuance of the necessary rules and regulations to cover the procedure for such determination;

(2) the preparation of the roll, the issuance of rules and regulations applicable thereto, and the hearing of claims filed by any applicant denied enrollment;

(3) the appointment of the incorporators of the Corporation and, in conjunction with the Secretary, the approval of the articles of incorporation before they are filed;

(4) the establishment of geographic regions under section 9 of this Act;

(5) the issuance of rules and regulations for and the approval of land transactions as provided under this Act;

(6) the submission of reports to Congress as provided in section 17 of this Act; and

(7) such other duties and responsibilities as are provided under this Act.

ENROLLMENT

SEC. 6. The Commission, in accordance with such regulations as the Commission may issue, shall prepare a roll listing all natives born on or before December 31, 1970, and living on the date of enactment of this Act. Any native whose name does not appear on the roll who was born on or before December 31, 1970, and who was living on the date of enactment of this Act shall be entitled to have his name so listed upon proof of eligibility satisfactory to the Commission. The Secretary shall make available to the Commission such personnel, services and material as he deems reasonable in connection with the preparation of the roll provided for herein. Any applicant denied enrollment shall be notified in writing thereof and such applicant and any other interested person shall be given an opportunity for a hearing by the Commission and judicial review as provided in section 5 of this Act.

ALASKA NATIVE DEVELOPMENT CORPORATION

SEC. 7. (a) There is authorized to be established the Alaska Native Development Corporation as an Alaskan Corporation which will not be an agency or establishment of the United States Government. The Corporation, for a period of twenty years after its incorporation, shall be subject to the provisions of this Act, and to the extent consistent with this Act, to the laws of the State of Alaska.

(b) The Commission shall appoint five incorporators, one of whom shall be the Chairman of the Commission, who shall take whatever actions are necessary to establish the Corporation, including the filing of articles of incorporation, as approved by the Commission and the Secretary. The incorporators shall serve as the Corporations initial board of directors and shall serve until the permanent directors have been elected as provided in subsection (c) of this section. The Secretary is authorized to pay the sum of $1,000,000 to the Corporation as paid in capital.

(c) The management of the Corporation shall be vested in a board of directors which shall consist of seventeen members elected by the stockholders of the Corporation on the following basis:

(1) One member representing and elected by the stockholders living in each of the twelve regions of Alaska as determined by section 9 of this Act; and

(2) Five members representing and elected by all of the stockholders. Members of the board so elected shall serve for terms of four years or until their successors have been elected and qualified: *Provided*, That among the directors first elected, five shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further*, That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of

the Corporation: *Provided,* That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Corporation.

(d) The Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. No officer of the Corporation shall engage in any other business during the period of his employment by the Corporation. The President shall be responsible for carrying out the Corporation's functions in a businesslike manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board, and shall appoint such other employees as the board deems appropriate. Such employees shall be subject to standards and requirements similar to those applicable to Federal civilian employees, but shall not be regarded as Federal employees for any purpose.

(e) The Corporation shall be authorized to have one million shares of common stock, without par value, divided into such classes of shares as may be authorized in the articles of incorporation. Until June 30, 1992, shares of stock of the corporation shall be issued only to natives and each native shall be issued ten shares of stock immediately upon the listing of his name on the roll authorized by section 6 of this Act. Until June 30, 1992, the shares authorized to be issued under this subsection shall not be sold, transferred, assigned, or otherwise disposed of or mortgaged or pledged by the holder thereof except by testamentary disposition to the surviving spouse and heirs under state law or interstate succession. Any succeeding stockholder shall, until June 30, 1992, be prohibited from transferring, mortgaging, or pledging such shares in the same manner and to the same extent as the initial stockholder. Until June 30, 1992, the stock issued pursuant to this section shall not be subject to Federal or State estate or inheritance tax laws.

(f) The Corporation shall, in accordance with such terms and conditions as the board may prescribe and consistent with the laws of the State of Alaska and for the benefit of the stockholders thereof, invest its funds; make dividend payments to the stockholders at such times as the board of directors deems appropriate; provide for the lending of funds to individuals or organizations for the construction of homes and other purposes that would promote economic development of the natives; provide loans or grants to native villages, or regional or governing bodies or native corporation for the purpose of fostering the health and welfare of the people; provide loans for the education of individual natives; provide emergency or charitable grants and loans to individuals or communities in times of distress; sell, lease, or otherwise dispose of its assets, both real and personal; and promote the economic development of the native and the native villages to the greatest possible extent. The Corporation shall establish such rules and procedures as it deems appropriate in carrying out the provisions of this subsection. For a period of twenty years after incorporation, the Corporation shall not, in any one fiscal year, issue dividends or make any unsecured loans, of more than one half of the income received by the Corporation from the following sources during the previous fiscal year: (1) corporate profit, (2) annual contributions as provided in subsection (h) of this section or section 8, and (3) income received from disposal of minerals patented to it pursuant to subsection (e) of section 12 of this Act. Neither the annual contributions made

to the Corporation under subsection (h) of this section or section 8 nor the income received by the Corporation prior to June 30, 1992, from disposal of minerals patented to it pursuant to subsection (e) of section 12 of this Act shall be subject to Federal or State tax laws.

(g) The Corporation shall be subject to audit by the General Accounting Office until June 30, 1992. After final audit by the General Accounting Office and the filing of a summary financial report with the Congress, the limitations established under this section applicable to the Corporation shall terminate and the Corporation shall continue in business under the applicable laws of the State of Alaska.

(h) The Secretary is authorized to and shall pay to the Corporation beginning in fiscal year 1972 the sum of $24,250,000 and on July 1 of each fiscal year thereafter for a period of 19 years the sum of $25,000,000. There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payments authorized in this subsection.

REVENUE SHARING

SEC. 8. (a)(1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease, after the date of enactment of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 *et seq.*), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351, *et seq.*) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the date of enactment of this Act, shall be distributed as provided in the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State of Alaska and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid to the Corporation. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid to the Corporation, and the respective shares of the State of Alaska and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the date of enactment of this Act shall provide that prior to calculating the respective shares of the State of Alaska and the United States in such proceeds under the Statehood Act: (A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid to the Corporation; and (B) 2 per centum of all revenues derived from rentals and bonuses shall be deducted and paid to the Corporation.

(b) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State of Alaska

under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State of Alaska under the Statehood Act after the date of enactment of this Act, however, shall expressly reserve for the benefit of the natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State of Alaska) of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State of Alaska; (2) a right to receive 2 per centum of all revenues derived by the State of Alaska from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State of Alaska under (i) leases of the United States which are or may be assumed by the State of Alaska under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case of lands heretofore or hereafter selected by the State of Alaska, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State of Alaska by January 1, 1969: *Provided, however*, That the bonus revenues received by the State of Alaska at the September 1969, sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale up to the date of December 31, 1970. Any royalty, and rentals received pursuant to such sale after December 31, 1970, shall be subject to the revenue sharing provisions of this section.

(c) Revenues received by the United States or the State of Alaska as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid to the Corporation on account thereof. All royalty and other revenues required to be paid under this section shall be paid to the Corporation promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State of Alaska as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State of Alaska elects to take royalties in kind, there shall be paid to the Corporation on account thereof an amount equal to the royalties that would have been paid to the Corporation under the provisions of this section had the royalty been taken in cash.

(d) The payments required pursuant to this section shall continue only until $500,000,000 has been paid to the Corporation. Thereafter the provisions of this section shall not apply and the reservation required in patents under subsection (b) of this section shall be of no further force and effect.

(e) The provisions of this section requiring revenue sharing by the State of Alaska shall be enforceable by the United States on behalf of the natives but this shall not preclude the Corporation from pursuing any remedies available to it in the event of default by the State of Alaska. In the event of default by the State of Alaska in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and paid to the Corporation the amount of any underpayment from the share of

mineral revenues from public lands in Alaska which would otherwise be paid to the State of Alaska pursuant to Federal law.

(f)(1) The provisions of this section requiring revenue sharing by the State of Alaska and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by natives and as to which the State of Alaska was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore, in the event that the State of Alaska initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 8 all rights of land selection granted to the State of Alaska by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation.

(2) Any civil action commenced by the State of Alaska or by any other parties to contest in any manner the purpose and the substantive operation of this section 8 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the natives and the State of Alaska to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State of Alaska, the natives and the United States.

(3) In the event that rights of land selection granted to the State of Alaska by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (f)(1) hereof, the State of Alaska's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (f)(1).

(g) The respective shares of the United States and the State of Alaska with respect to payments to the Corporation required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (b) hereof; and

(2) then, from sources identified under subsection (a) hereof.

(h) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

REGIONS

SEC. 9. For purposes of this Act, the State of Alaska shall be divided by the Commission within one year after the date of enactment of this Act into twelve geographic regions, with each region composed as far as practicable of natives having a common heritage and sharing common interest. In the absence of good cause shown to the contrary such regions shall approximate the areas covered by the operations of the following existing native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula. Unalakleet. St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Ekutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tititlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and shall be final.

WITHDRAWAL OF PUBLIC LANDS

SEC. 10. (a) Public Land Order Numbered 4582, 34 *Federal Register* 1025 and Public Land Order Numbered 4962, 35 *Federal Register* 18874 are hereby revoked.

(1) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska, except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4, and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, including the mining laws, and the mineral leasing laws, in each township, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, which encloses all or part of any native village listed in paragraph (2) of this subsection plus all public lands in the State of Alasks, except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4 and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining alws, and the mineral leasing laws, in each township that is contiguous to or cornering on the township which encloses said native village as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available. During a period of one year from the date of withdrawal, each native village shall

select, in accordance with rules and regulations established by the Secretary, an area equal to three townships from within the townships that are contiguous to or corner on the township enclosing the native village. All selections made under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water. At the end of the said one-year period, all townships or portions thereof withdrawn under the authority of this subsection, except those enclosing listed native villages and that area selected by the native villages, and also except those located in the National Wildlife Refuge System and naval petroleum reserve numbered 4 shall be subject to the provisions of subsection (b) hereof and shall be deemed to have been withdrawn under the provisions of said subsection. At the end of the said one-year period, all townships or portions thereof withdrawn under the authority of this subsection, except those enclosing listed native villages and that area selected by the native village, located in the National Wildlife Refuge System and naval petroleum reserve numbered 4, shall terminate.

(2) The following native villages are qualified for withdrawals under the provisions of this subsection:

NAME OF PLACE AND REGION

Akiachak, Southwest Coastal Lowland
Akiak, Southwest Coastal Lowland
Akutan, Aleutian
Alakanuk, Southwest Coastal Lowland
Aleknagik, Bristol Bay
Alatna, Koyukuk-Lower Yukon
Allakaket, Koyukuk-Lower Yukon
Ambler, Bering Strait
Anaktuvuk Pass, Arctic Slope
Andreafsey, Southwest Coastal Lowland
Aniak, Southwest Coastal Lowland
Anvik, Koyukuk-Lower Yukon
Arctic Village, Upper Yukon-Porcupine
Atka, Aleutian
Atkasook, Arctic Slope
Barrow, Arctic Slope
Beaver, Upper Yukon-Porcupine
Belkofsky, Aleutian
Bethel, Southwest Coastal Lowland
Bill Moore's, Southwest Coastal Lowland
Biorka, Aleutian
Birch Creek, Upper Yukon-Porcupine
Brevig Mission, Bering Strait
Buckland, Bering Strait
Candle, Bering Strait
Cantwell, Cook Inlet
Canyon Village, Upper Yukon-Porcupine
Chalkyitsik, Upper Yukon-Porcupine
Chanilut, Southwest Coastal Lowland
Chefornak, Southwest Coastal Lowland
Chevak, Southwest Coastal Lowland
Chignik, Kodiak

NAME OF PLACE AND REGION—continued

Chignik Lagoon, Kodiak
Chignik Lake, Kodiak
Chistochina, Copper River
Chukwuktoligamute, Southwest Coastal Lowland
Circle, Upper Yukon-Porcupine
Clark's Point, Bristol Bay
Copper Center, Copper River
Crooked Creek, Upper Kuskokwim
Deering, Bering Strait
Dillingham, Bristol Bay
Eagle, Upper Yukon-Porcupine
Dot Lake, Tanana
Eek, Southwest Coastal Lowland
Egegik, Bristol Bay
Eklutna, Cook Inlet
Ekwok, Bristol Bay
Elim, Bering Strait
Emmonak, Southwest Coastal Lowland
English Bay, Cook Inlet
False Pass, Aleutian
Fort Yukon, Upper Yukon-Porcupine
Gakona, Copper River
Galena, Koyukuk-Lower Yukon
Gambell, Bering Sea
Georgetown, Upper Kuskokwim
Golovin, Bering Strait
Goodnews Bay, Southwest Coastal Lowland
Grayling, Koyukuk-Lower Yukon
Gulkana, Copper River
Hamilton, Southwest Coastal Lowland
Holy Cross, Koyukuk-Lower Yukon
Hooper Bay, Southwest Coastal Lowland
Hughes, Koyukuk-Lower Yukon
Huslia, Koyukuk-Lower Yukon
Igiugig, Bristol Bay
Iliamna, Cook Inlet
Inalik, Bering Strait
Ivanof Bay, Aleutian
Kaktovik, Arctic Slope
Kalskag, Southwest Coastal Lowland
Kaltag, Koyukuk-Lower Yukon
Karluk, Kodiak
Kasigluk, Southwest Coastal Lowland
Kiana, Bering Strait
King Cove, Aleutian
Kipnuk, Southeast Coastal Lowland
Kivalina, Bering Strait
Kobuk, Bering Strait
Koliganek, Bristol Bay
Kokhanok, Bristol Bay
Kongiganak, Southwest Coastal Lowland
Kotlik, Southwest Coastal Lowland
Kotzebue, Bering Strait

NAME OF PLACE AND REGION—continued

Koyuk, Bering Strait
Koyukuk, Koyukuk-Lower Yukon
Kwethluk, Southwest Coastal Lowland
Kwigillingok, Southwest Coastal Lowland
Larsen Bay, Kodiak
Levelock, Bristol Bay
Lime Village, Upper Kuskokwim
Lower Kalskag, Southwest Coastal Lowland
McGrath, Upper Kuskokwim
Makok, Koyukuk-Lower Yukon
Manokotak, Bristol Bay
Marshall, Southwest Coastal Lowland
Mary's Igloo, Bering Strait
Medfra, Upper Kuskokwim
Mekoryuk, Southwest Coastal Lowland
Mentasta Lake, Copper River
Minchumina Lake, Upper Kuskokwim
Minto, Tanana
Mountain Village, Southwest Coastal Lowland
Nabesna Village, Tanana
Naknek, Bristol Bay
Napaimute, Upper Kuskokwim
Napakiak, Southwest Coastal Lowland
Napaskiak, Southwest Coastal Lowland
Nelson Lagoon, Aleutian
Newhalen, Cook Inlet
Nenana, Tanana
New Stuyahok, Bristol Bay
Newtok, Southwest Coastal Lowland
Nightmute, Southwest Coastal Lowland
Nikolai, Upper Kuskokwim
Nikolski, Aleutian
Ninilchik, Cook Inlet
Noatak, Bering Strait
Nome, Bering Strait
Nondalton, Cook Inlet
Nooiksut, Arctic Slope
Noorvik, Bering Strait
Northeast Cape, Bering Sea
Northway, Tanana
Nulato, Koyukuk-Lower Yukon
Nunapitchuk, Southwest Coastal Lowland
Ohogamiut, Southwest Coastal Lowland
Old Harbor, Kodiak
Oscarville, Southwest Coastal Lowland
Ouzinkie, Kodiak
Paradise, Koyukuk-Lower Yukon
Paulof Harbor, Aleutian
Pedro Bay, Cook Inlet
Perryville, Kodiak
Pilot Point, Bristol Bay
Pilot Station, Southwest Coastal Lowland
Pitkas Point, Southwest Coastal Lowland

NAME OF PLACE AND REGION—continued

Platinum, Southwest Coastal Lowland
Point Hope, Arctic Slope
Point Lay, Arctic Slope
Portage Creek (Ohgsenakale), Bristol Bay
Port Graham, Cook Inlet
Port Lions, Kodiak
Port Heiden (Meshick), Aleutian
Quinhagak, Southwest Coastal Lowland
Rampart, Upper Yukon-Porcupine
Red Devil, Upper Kuskokwim
Ruby, Koyukuk-Lower Yukon
Russian Mission (Kuskokwim) (or Chauthalue), Upper Kuskokwim
Russian Mission (Yukon) Southeast Coastal Lowland
St. George, Aleutians
St. Mary's, Southwest Coastal Lowland
St. Michael, Bering Strait
St. Paul, Aleutians
Salamatof, Cook Inlet
Sand Point, Aleutian
Savonoski, Bristol Bay
Savoonga, Bering Sea
Scammon Bay, Southwest Coastal Lowland
Selawik, Bering Strait
Shageluk, Koyukuk-Lower Yukon
Shaktoolik, Bering Strait
Sheldon's Point, Southwest Coastal Lowland
Shismaref, Bering Strait
Shungnak, Bering Strait
Slana, Copper River
Sleetmute, Upper Kuskokwim
South Naknek, Bristol Bay
Squaw Harbor, Aleutians
Stebbins, Bering Strait
Stevens Village, Upper Yukon-Porcupine
Stony River, Upper Kuskokwim
Tanacross, Tanana
Tanana, Koyukuk-Lower Yukon
Telida, Upper Kuskokwim
Teller, Bering Strait
Tetlin, Tanana
Togiak, Bristol Bay
Toksook Bay, Southwest Coastal Lowland
Tuluksak, Southwest Coastal Lowland
Tuntutuliak, Southwest Coastal Lowland
Tununak, Southwest Coastal Lowland
Twin Hills, Bristol Bay
Tyonek, Cook Inlet
Ugashik, Bristol Bay
Unalakleet, Bering Strait
Unalaska, Aleutian
Unga, Aleutian
Uyak, Kodiak

NAME OF PLACE AND REGION—continued

Venetie, Upper Yukon-Porcupine
Wainwright, Arctic Slope
Wales, Bering Strait
White Mountain, Bering Strait

(b) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public land in the State of Alaska, except land withdrawn or reserved for national defense purposes, including naval petroleum reserve numbered 4, and land in the National Park System and the National Wildlife Refuge System subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, including the mining laws and the mineral leasing laws in each township that is contiguous to or cornering on the townships surrounding the township which encloses each native village as set forth in paragraph (1) of subsection (a) of this section as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available.

(c) Except as hereinafter provided, there are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska except land withdrawn or reserved for national defense purposes, other than naval petroleum reserve numbered 4, and land in the National Park System, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining laws, and the mineral leasing laws, in each section, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, outside the areas withdrawn and selected under subsection (a) of this section or outside of the areas withdrawn under subsection (a) of section 14 of this Act, which encloses land occupied, as determined by the Commission, by a native as a primary place of residence on December 31, 1970. Determination of land occupied by a native as a primary place of residence on December 31, 1970 shall be made by the Commission upon application filed with the Commission by such native within two years after the effective date of this Act.

(d) Pending the disposition of any land withdrawn under this section or section 14, the applicable laws and regulations, other than the mining laws and the mineral leasing laws, shall govern the use, management, and administration of such land, including the right to acquire, grant, or use leases, permits or rights-of-way under such terms and conditions as the Secretary may establish.

(e) Withdrawals made pursuant to subsection (b) of this section shall terminate 5 years after the date of enactment of this Act for those lands the surface estate of which the Corporation has not designated for patent to native villages pursuant to section 12(a) and 12(d) and the mineral estate of which the Corporation has not designated for patent to itself pursuant to section 12(e). Withdrawals made pursuant to subsection (c) of this section may be terminated by the Secretary prior to June 30, 1992 upon issuance of a patent to the native

occupying land within such area or upon the relocation of such native of his primary place of residence as determined by the Commission outside such withdrawn area. Withdrawals of minerals covered by the mining laws and the mineral leasing laws in lands located in naval petroleum reserve numbered 4 made pursuant to subsection (a) of this section may be terminated by the Secretary prior to June 30, 1992.

SURVEYS

SEC. 11. The Secretary shall survey the areas selected or designated for conveyance to incorporated native villages pursuant to the provisions of this Act. He shall monument only exterior boundaries of the selected or designated areas at angle points and at intervals of approximately one mile on straight lines. No ground survey or monumentation will be required along meanderable water boundaries. He shall survey within the areas selected or designated land occupied as a primary place of residence, a primary place of business, and for other purposes, and any other land to be patented under this Act.

CONVEYANCE OF LANDS

SEC. 12. (a) Upon application of any native village listed in section 10 of this Act, which is an incorporated native village, filed with the Commission and upon certification thereof by the Commission, the Secretary shall, until June 30, 1992, issue a patent to the surface estate, without payment therefor, to such applicant incorporated native village of 92,160 acres of land subject to all valid existing rights, from any public land within areas withdrawn and selected by such native village under the provisions of subsection (a) of section 10 of this Act: *Provided, however*, That if because of the lack of public lands a patent to the surface estate to any such applicant incorporated native village of 92,160 acres is not possible, the Secretary shall patent to such incorporated native village such surface estate of public land withdrawn under the provisions of subsection (b) of section 10, as the Corporation may designate, without payment therefor and subject to all valid existing rights, which are necessary to provide a total surface estate patented to such incorporated native village of 92,160 acres. Designations made for each native village under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

Upon receipt of a patent or patents to land under the provisions of this subsection (a) the incorporated native village:

(1) shall issue deeds to the occupants, without payment therefor, for any tracts occupied by Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to all valid existing rights;

(2) shall issue deeds to the occupants, either without payment therefor or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts, occupied by non-natives as a primary place of residence or a primary place of business, subject to all

valid existing rights: *Provided,* That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(3) shall issue deeds to the occupants, either without payment therefor or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial joccupancy and without regard to any improvements thereon, for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to all valid existing rights: *Provided,* That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(4) may issue deeds, subject to all valid existing rights, to all others.

(b) Upon application of any native village listed in section 14 of this Act, which is an incorporated native village, filed with the Commission and upon certification thereof by the Commission, the Secretary shall, until June 30, 1992, issue a patent to the surface estate, without payment therefor, to such applicant incorporated native village of 23,040 acres of land, subject to all valid existing rights, from any public land within areas withdrawn under the provisions of section 14 of this Act.

Upon receipt of a patent or patents to land under the provisions of subsection (b) the incorporated native village:

(1) shall issue deeds to the occupants, without payment therefor, for any tracts occupied by natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to all valid existing rights;

(2) shall issue deeds to the occupants, either without payment therefor or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts occupied by non-natives as a primary place of residence or a primary place of business, subject to all valid existing rights: *Provided,* That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(3) shall issue deeds to the occupants, either without payment therefor or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to all valid existing rights: *Provided,* That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(4) may issue deeds, subject to all valid existing rights, to all others.

(c) Upon application filed with the Commission and certification thereof, the Secretary shall, until June 30, 1992, issue a patent to the surface estate of up to, but not to exceed, 160 acres of land, subject to all valid existing rights, from any public lands within the areas withdrawn for natives under subsection (c) of section 10 of this Act,

without payment therefor, to any native occupying land within such 160 acres on the date of enactment of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(d)(1) Within a period of 5 years after the date of enactment of this Act the Corporation shall designate additional land for the benefit of each native village from within areas withdrawn under subsection (b) of section 10 of this Act. In designating land for the benefit of each native village, the Corporation shall take into account such factors as population, subsistence needs, traditional way of life of the occupants, economic resources, and the nature and value of the land designated. The land designated under this subsection shall in the aggregate total 40 million acres reduced by the total number of acres patented or to be patented to individuals or incorporated native villages pursuant to subsections (a), (b) and (c) of this section 12. Designations made for each native village under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

(2) Contemporaneous with the issuance of a patent to each incorporated native village under subsection (a) hereof, or as soon thereafter as possible, the Secretary shall issue a patent to the surface estate without payment therefor subject to all valid existing rights to such additional public land designated by the Corporation for the benefit of each such native village pursuant to paragraph (1) of this subsection (d).

(e) Contemporaneous with the issuance of a patent to individuals or incorporated native villages as provided in subsections (a), (b), (c) and (d) hereof, the Secretary shall, with the exception of those lands located in the National Wildlife Refuge System, and land withdrawn or reserved for national defense purposes, including naval petroleum reserve numbered 4, issue a patent or patents to all minerals in such lands covered by the mining laws and the mineral leasing laws, without payment therefor and subject to all valid existing rights, to the Corporation: *Provided, however,* That contemporaneous with the issuance of a patent to incorporated native villages, as provided in subsection (a) hereof, of land located in the National Wildlife Refuge System or naval petroleum reserve numbered 4, the Secretary shall patent to the Corporation all minerals covered by the mining laws and the mineral leasing laws in such public land withdrawn under the provisions of subsection (b) of section 10 as the Corporation may designate, without payment therefor and subject to all valid existing rights, equal to the number of acres the surface estate of which is patented to incorporated native villages and located in the National Wildlife Refuge System or naval petroleum reserve numbered 4. Designations made under this subsection shall be contiguous, and in reasonably compact tracts according to Federal or State protraction diagrams or approved surveys except as separated by bodies of water.

(f) Where, prior to patent of any land or interest therein, under this section, a lease, contract, or permit has been issued for the utilization of resources, such patent shall contain provisions making the patent subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. After the issuance of a patent for the land or interest therein subject

to such lease, contract, or permit, all income derived from any such lease, contract, or permit shall be received by the patentee except that the administration of such lease, contract or permit shall continue to be conducted by the lessor, contractor, or permitter.

MINERAL LEASING ACT

SEC. 13. Deposits of all minerals included under the mineral leasing laws, including but not limited to, coal, phosphate, sodium, potassium, oil, oil shale, or gas located in all public lands in Alaska except land within naval petroleum reserve numbered 4 shall be subject to disposition by the Secretary under the terms of this Act. Except as otherwise provided in section 12(e) herein, after the date of enactment of this Act, the Secretary is authorized to dispose of such deposits only by competitive bidding, but otherwise under the provisions of the applicable mineral leasing law. He shall prescribe by regulation the procedures to be used for competitive bidding. The term "mineral leasing laws" as used in this section means only the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C., secs. 181–283), and the Mineral Leasing Act for Acquired Lands (30 U.S.C., secs. 351–359).

THE TLINGIT-HAIDA SETTLEMENT

SEC. 14. (a) There are hereby withdrawn, until June 30, 1992, all public lands in the State of Alaska, except land withdrawn or reserved for national defense purposes other than naval petroleum reserve numbered 4, subject to all valid existing rights, from all forms of appropriation under the public land laws, including selection rights under the Alaska Statehood Act, as amended, and including the mining laws and the mineral leasing laws, in each township as shown on current plats of survey or protraction diagrams of the Bureau of Land Management or protraction diagrams of the State of Alaska where protraction diagrams of the Bureau of Land Management are not available, which encloses all or part of the following native villages:

Angoon, Southeast
Craig, Southeast
Hoonah, Southeast
Hydaburg, Southeast
Kake, Southeast
Kassan, Southeast
Klawock, Southeast
Klukwan, Southeast
Saxman, Southeast
Tatitlek, Gulf of Alaska
Yakutat, Southeast

(b) The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of *The Tlingit and Haida Indians of Alaska, et al.* v. *The United States*, No. 479000, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431), is in lieu of the additional acreage of up to 69,120 acres to be conveyed to each village listed in section 12 of this Act which qualifies as an incorporated native village.

(c) Any and all claims of the Tlingit and Haida Indians, including but not limited to, the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of *The Tlingit and Haida Indians of Alaska, et al.* v. *The United States*, No. 479000 are hereby extinguished.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 15. No native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

REVOCATION OF RESERVATIONS

SEC. 16. Notwithstanding any other provision of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial order for native use or for administration of native affairs, including those created under the Act of May 31, 1938 (52 Stat. 593), are hereby revoked subject to any valid existing rights of non-natives. This section shall not apply to the Annette Island Reserve established by the Act of March 3, 1891 (26 Stat. 1101).

REVIEW BY CONGRESS

SEC. 17. The Commission and the Secretary shall submit to the Congress annual reports on implementation of this Act. Such reports are to be filed by the Commission until its termination, and by the Secretary annually until June 30, 1992. At the beginning of the first session of Congress preceding June 30, 1992, the Commission and the Secretary will submit, through the President, a joint report of the status of the natives and native groups in Alaska, and a summary of actions taken under this Act, together with such recommedantions as may be appropriate for continuation or modification of any provisions of this Act which will specifically expire as of June 30, 1992.

APPROPRIATIONS

SEC. 18. There is authorized to be appropriated to the Secretary and to the Commission such sums as may be necessary to carry out the functions and responsibilities including payments that he is required to perform under the provisions of this Act. Such sums shall remain available until expended.

PUBLICATION

SEC. 19. The Secretary is authorized to issue and publish in the *Federal Register*, pursuant to the Administrative Procedures Act (5 U.S.C.) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 20. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

SEPARABILITY

SEC. 21. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 4, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: As you asked, here is the report of the Department of Agriculture on H.R. 3100, a bill "To provide for the settlement of certain land claims of Alaska Natives, and for other purposes."

In lieu of H.R. 3100 we recommend the enactment of substitute bill H.R. 7432 which has been endorsed by the Administration.

We believe the grants that would be provided by the Administration proposal will adequately meet the particular needs of the Natives in villages within National Forests and at the same time recognize past actions and the special and important values of these public lands. The Natives' needs for hunting, fishing, and gathering around these specific villages can be clearly met within the management policies and practices followed in normal National Forest management.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program and that enactment of H.R. 7432 would be in accord with the President's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., May 5, 1971.

In reply refer to LA–61:1pm.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on H.R. 3100, a bill "To provide for the settlement of certain land claims of Alaska natives, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

As you know, the Department of the Interior on behalf of the Administration has submitted a substitute draft bill having the purposes and objectives of H.R. 3100. The Interior bill, which has been introduced as H.R. 7432, contains provisions relating to Naval Petroleum Reserve No. 4, which are entirely satisfactory to this Department. Accordingly, in so far as this aspect of the legislation is concerned, the Department of the Navy, on behalf of the Department of Defense, recommends the enactment of H.R. 7432, in lieu of H.R. 3100.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 3100 for the consideration of the Committee and that enactment of H.R. 7432 would be in accordance with the President's program.

For the Secretary of the Navy.

Sincerely yours,

LANDO W. ZECH, JR.,
Captain, U.S. Navy, Deputy Chief.

A DISSENTING VIEW

The purpose of this view is not to oppose a just and equitable Alaska Native Land Claims settlement. However, it is my purpose to point out the inadequacies of H.R. 10367 as reported by the Committee on Interior and Insular Affairs.

It must be stated at the outset that providing an equitable legislative settlement to the claims of approximately 55,000 Alaska Natives (Eskimos, Indians and Aleuts), based on aboriginal use and occupancy of lands comprising the State of Alaska, is not the only purpose of H.R. 10367. An additional or underlying purpose of this legislation is that it authorizes the first step in a long series of actions which will profoundly affect the future economic, social and political development of the State of Alaska. H.R. 10367 proposes to do this without coordination and planning, primarily for the benefit of special interests.

The Alaska Natives have been pressing their claims for many, many years with very little success. Settlement of the Alaska Native Land claims did not achieve priority status until the confirmation of large petroleum reserves on the Alaska north slope by private interests. The resultant pressures have generated a flurry of legislation submitted to the Congress since 1967 as follows:

CHRONOLOGY OF INTERIOR'S PROPOSALS FOR SETTLEMENT OF THE ALASKA NATIVE LAND CLAIMS

I. The Alaska Native Claims Settlement Act of 1967—June 15, 1967.

A. Provided for approximately 10 million acres of land; 50,000 acres to each Native group to be held in trust for 25 years or until trust is terminated. Also, right of Natives to use public lands in Alaska for subsistence purposes for period of 25 years. Assume the title is for full fee, since bill is silent on any division of surface from minerals.

B. Amount of cash payment for aboriginal claim would be determined by Court of Claims based on 1867 values ($7.2 million was believed to be adequate to cover this amount since that is the amount the U.S. paid Russia for Alaska).

C. Three-man commission appointed by the Secretary to assist the Secretary in carrying out responsibilities under the Act.

II. The Alaska Native Claims Settlement Act of 1968—April 30, 1968.

A. Land provision of 10 million acres, similar to the 1967 proposal. Surface only to pass to Natives.

B. Provided for payment to Natives of either $3,000 per Native or $180 million total, whichever is less, to be paid over 5-year period. Payment to be made annually—90 percent to Native groups for their use, and 10 percent paid to the corporation for its investment.

C. Would create an Alaska Native Commission of three men to assist the Secretary.

D. Would create a single State-wide non-profit corporation—the Native Economic Improvement Corporation—to assist Native economic development and to hold title to minerals in land conveyed to the Natives.

III. The Alaska Native Claims Settlement Act of 1969—July 25, 1969.

A. Provides title to the surface and locatable minerals of 14–16 million acres of land. Two townships per village, except one to Tlingit and Haida villages. Patents to individuals and villages for subsistence campsites. Patents to individuals of 160 acres if primary place of residence. Patents for reindeer husbandry.

B. Provides monetary settlement of $500 million from the Treasury over 20-year period at $25 million per year.

C. Creates three-man Alaska Native Commission appointed by the President, with Senate confirmation, with assigned duties.

D. Creates single State-wide corporation—Alaska Native Development Corporation—to receive and invest funds provided for in the bill.

IV. The Alaska Native Claims Settlement Act of 1971—April 5, 1971.

A. Provides land settlement to the Natives of the patent to the surface of 40 million acres on the basis of 4 townships per village, except one to Tlingit and Haida villages, plus additional land to those villages that show need. Total not to exceed 40 million acres. Individuals receive patent to surface of 160 acres if primary place of residence.

B. A monetary settlement of $1 billion; $500 million from the Treasury over a 20-year period at $25 million a year, and $500 million to be paid from a 2 percent override on production of minerals from Federal and State land in Alaska.

C. Creates three-man Alaska Native Commission appointed by the President, with consent of the Senate, to carry out assigned duties.

D. Creates single State-wide corporation—Alaska Native Development Corporation—to receive payments from the Government and to hold title to the minerals in the 40 million acres patented to the Natives, and to invest and distribute the income for the economic development of the Natives.

This chronology illustrates the fact that the legislation submitted by the Administration to the 92nd Congress was in terms of land and

money, ill-conceived and uncoordinated with previous proposals. In turn, H.R. 10367 was born in conspiracy and secret negotiations on behalf of special interests without regard to the public interest.

Historically, the issue of Alaska Native claims has been with us since 1867. Alaska was ceded by treaty to the United States in 1867, for $7,200,000 in gold. On an acreage basis, the United States paid approximately 2 cents per acre for 375 million acres, of which 10 million are inland waters. Since the "Treaty of Cession", the Alaskan Natives have claimed that the transfer was subject to their ancestral rights of use and occupancy for which they are entitled to compensation.

The recognition or denial of possessory rights based upon claims of aboriginal use and occupancy has long engaged the attention of the courts and Congress. *Johnson* v. *Mc Intosh*, 8 Wheat. 543 (1823). The principle is well established that Congress has the exclusive power to deal with such claims. *United States* v. *Santa Fe Pacific R.R. Co.*, 314 U.S. 339 (1941). And, the courts have held that Congress can recognize or extinguish such claims *with or without compensation* (emphasis added), as it sees fit to do. *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955). Further, the courts have universally held that the justice or manner in which extinguishment of such a claim occurs cannot be the subject of judicial inquiry, for it is a moral rather than a legal right and, as such, is a matter for political rather than judicial consideration. *United States* v. *Santa Fe Pacific R.R. Co.*, supra; *Buttz* v. *Northern Pacific R.R. Co.*, 119 U.S. 55 (1886); *Beecher* v. *Weatherby*, 95 U.S. 517 (1877).

Assuming there exists some priority for a settlement of the Alaska Native land claims, the question arises initially as to the nature and sufficiency of their claims. The nature and sufficiency of claims based upon aboriginal use and occupancy are questions of fact and the evidence to support the same has varied. Yet the legislative record on H.R. 10367 is void of facts or detailed information to understand and support the nature and sufficiency of the Alaskan Native land claims. It is true that the record is replete with general statements regarding the claims of aboriginal use and occupancy, but nowhere in the record is there detailed evidence to support such claims.

Nor have the Alaskan Natives sought redress of their claims through the Indian Claims Commission, which was established by Congress in 1946 for the purpose of hearing and determining all legal, equitable, and moral Indian claims against the United States accruing before the effective date of that Act. To argue that such redress was not available because the United States had not acted to take or extinguish the Alaskan Native land claims is most unpersuasive in light of the numerous judicial decisions, Federal enactments and continuing Federal policy to protect the rights claimed by the Alaka Natives.

The failure of the Alaskan Natives to document in detail their claims is indicative of the insufficiency of such claims. If a strict test were applied in the consideration of this legislation, it is questionable whether the Natives could support an appreciable fraction of their claims. Through changes in their habits and mode of living over the last 30 to 40 years, the Natives have abandoned large portions of their ancestral lands. The proof to sustain their claims based upon historical versus present land use patterns would be hard to come by.

H.R. 10367 proposes the conveyance of 40 million acres of public lands and the expenditure of $925 million of public funds. Without substantial evidentiary facts and information to support such claims, on what basis can the American people be asked to provide such a largess for the benefit of 55,000 Alaskan Natives who enjoy the dual benefits of being Alaskan and American citizens on the one hand, and being at the same time a privileged and select group who have received as beneficiaries untold millions in special benefits over the years for health, education, housing and welfare appropriated by the Federal and State Governments since 1867?

Again, assuming a priority to legislate a settlement of the Alaska Native land claims and that such a settlement should be in the form of a combination grant of land and money, the question arises as to the amount of land practically available for settlement and the basis upon which a grant of money can be predicated.

Today, despite the entries permitted upon the lands of Alaska under both Federal and State statutes, approximately 95% of Alaska is still in the public domain. As public domain, these lands and their mineral values belong to all the American people.

In proposing a grant of lands to the Alaskan Natives in settlement of their claims, it must be kept in mind that only 125 million acres of the total 375 million acres in Alaska can be used for extended human habitation. This includes all of the land located below the one thousand foot elevation, the point customarily used in Alaska to delineate areas hospitable to the establishment of city and village life, farming and other normal human uses.

Of the usable 125 million acres, the State of Alaska has, under the provisions of the Act granting statehood, the right to select within 25 years after admission as a State, approximately 103 million acres for the purposes of furthering the development of and expansion of communities. The State of Alaska has already exercised a preference to approximately 39.7 million of the 125 million acres. If the State were permitted to select its 103 million acres, simple mathematics indicates a balance of 22 million acres practically available for settlement of Native land claims, irrespective of any public or Federal interest.

Notwithstanding any public interest, simple mathematics on the lands practically available, or prior Congressional enactments, H.R. 10367, as reported, proposes the conveyance of 40 million acres of surface and mineral estate in settlement of the Native land claims. This approach of H.R. 10367 is fraught with future legal controversies because it permits selection and patent to the Natives, lands already selected and tentatively approved to the State, lands already in Naval Petroleum Reserve Numbered 4, lands already in the National Wildlife Refuges, and lands already in the National Forests. In essence, H.R. 10367 fails to take a common sense approach to the amount of lands practically available for settlement.

H.R. 10367, as reported, also proposes a grant of $925 million in settlement of the Alaska Native land claims. The Committee in supporting this grant of money states that the dollar figures represent a carefully considered judgment on the part of the Committee . . . in light of present-day conditions, but fails to illustrate the basis or manner in which the Committee arrived at such a carefully considered

judgment. The Committee also states that the $925,000,000 figure is an arbitrary one and not intended to be related to the value of the lands claimed by the Natives under the doctrine of aboriginal title. Obviously the Committee is unaware of the basis or manner in which it arrived at the carefully considered judgment to expend $925 million in public funds.

Yet the Committee rejected an amendment which indicates that the total money grant in settlement of these claims should be not more than $500 million. This amendment is based upon the average amount the Indian Claims Commission has paid per acre on all Indian land claims which averages 78 cents per acre. If offsets are taken into consideration, the average drops to 73 cents per acre. If calculated on the basis of claims already settled in Alaska, the average amount paid per acre is 42 cents. For the sake of providing some basis for such a monetary grant, the Committee should have accepted the average of 73 cents on claims paid by the Indian Claims Commission, offset the 40 million acre grant and by simple multiplication, arrive at a money grant of $244,550,000. It becomes quite clear that H.R. 10367, as reported, has no basis in fact for the expenditure of $925,000,000 in public funds.

In addition to deciding what is the most just and appropriate settlement of the Alaska Native land claims issue, it follows that the Committee, and the Congress, should carefully consider any other effects involved in such a settlement. One of the true inadequacies of H.R. 10367, as reported by the Committee on Interior and Insular Affairs, is the Committee's failure to accept the amendments offered to provide for comprehensive land use planning in Alaska.

H.R. 10367 will, upon enactment, bring an abrupt termination of the existing "land freeze" on unreserved public lands in Alaska. Lifting the "land freeze" without proper provisions for planned and controlled disposition of the public lands will throw our Nation's last great unit of public domain open to immediate and devastating disposal under archaic public land laws left over from an era when the national goal was to dispose of the public domain on a wholesale or piecemeal basis.

Traditionally, the Committee on Interior and Insular Affairs, proior to authorizing legislation to provide for the disposition of funds appropriated to pay a judgment awarded by the Indian Claims Commission, carefully examines the economic and social conditions of the tribe or tribes involved in the claim and generally requires that a portion of the settlement be set aside for education and community planning and development. The Committee generally follows this course of action because the Committee knows that to find areas of bad land use planning, one only needs to go to the Indian reservations in the "lower 48."

H.R. 10367, as reported, endorses turning over 40 million acres of land to the Alaska Natives and 103 million acres to the State of Alaska without comprehensive land use planning.

The Committee, in reporting H.R. 10367, strongly rejected amendments proposing land use planning as a part of this settlement. Under normal legislative conditions, any grant of 40 million acres of public land would require, as a matter of orderly procedure, proper planning for the use of these lands. In this case, the opponents of the land use planning amendments argued emotionally that the amendments would inhibit, if not shatter, the proposed Native claims settle-

ment, the amendments would again place a freeze on the public lands in Alaska, the amendments would stop the proposed trans-Alaska oil pipeline, and that the amendments were not germane, not considered in the subcommittee, and not the subject of Committee hearings.

At this point in the Committee consideration of this bill, it became evident that the special interests behind this legislation had succeeded in their first step of affecting the future economic, social and political future of Alaska by preventing the adoption of comprehensive land use planning provisions. In this way, the special interests are left free to wheel and deal on a local level with the Native villages, which under the terms of the bill will acquire from 23,040 to 161,280 acres of land, depending on the village population, and without the restrictions of comprehensive land use plans.

To argue that the comprehensive land use planning amendments are not germane to this legislation which lifts a land freeze on all public lands in Alaska, grants 40 million acres of public lands and $925 million in public funds, and provides for the administration of the remaining public lands is folly. The purpose of the land use planning amendments is to provide the specifics to the general language of the bill providing a grant of 40 million acres of land and the administration of remaining public lands. To state that comprehensive land use planning for Alaska should await the passage of other bills before the Congress is to close the gate after the horses are gone.

The land use planning amendments rejected by the Committee would not interfere with the Native land claims settlement. The amendments merely require that the national objectives be identified and within five years, or sooner, a basic comprehensive land use plan for all Federal lands and interests in lands in Alaska be developed. The plan when formulated would be subject to approval by Congress and until then further disposition of public lands in Alaska would be temporarily suspended.

It is strange, indeed, that there is such opposition to land use planning in this legislation when the Secretary of the Interior has already entered into negotiations and agreement to start land use planning on the Alaska North Slope, and the Committee on Appropriations has already appropriated $300,000 for fiscal 1972 for such land use planning.

H.R. 10367 offers a splendid opportunity not only to obtain social justice for the Alaska Natives, but an opportunity to provide for the wise use of Alaska's resources through comprehensive land use planning. Adoption of comprehensive land use planning amendments would serve the Nation, Alaska, and the Native people better by avoiding the mistakes of the past and achieve for all the environmental goals of all Americans.

Unfortunately, the Committee has not seen fit to send forth legislation which protects the national interest, and provides for the general welfare of the State of Alaska and all its inhabitants—Native and non-Native alike. Instead, the Committee has employed the ostrich approach in reporting H.R. 10367 by ignoring the real issues and placing its head in the oil.

JOHN P. SAYLOR.

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